

00 DEC 1988

5HR-12

Mr. James Hooper
Van Waters & Rogers Inc.
600 Hunter Drive
Oak Brook, Illinois 60521

Re: Return to Compliance
Van Waters & Rogers - Bedford
Heights
OHD 071 107 791

Dear Mr. Hooper:

We have received and reviewed your letter of October 7, 1988, regarding our Notice of Violation (NOV) dated September 23, 1988.

The information submitted with your letter appears to meet the requirements of the land disposal restriction regulation found at 40 CFR Part 268. We have therefore, returned this facility to compliance for those violations cited in our September 23, 1988, NOV.

If you should have any further questions, please contact Ms. Ann Budich of my staff at 353-6844.

Sincerely yours,

Sally K. Swanson, Chief
IH/MN/OH Enforcement Program
Section

cc: Mike Savage, OEPA
Sheryl Slone, NEDO

bcc: Sally Swanson, REB

5HR-12:RCRA:A.BUDICH:LT:11/28/88:DISK #1:JHOOPER.LTR

	TYP.	AUTH.	IL/MN TECH. ENF. SEC.	MIAMI TECH. ENF. SEC.	OH/OH TECH. ENF. SEC.	IL/MN/OH ENF. SEC.	IL/MN/OH ENF. SEC.	RCRA ENF. SEC.	O.R. A.S.D.	WASTE DIS.
INT. DATE		ab 11-30-88					SL5 12-888			

23 SEP 1988

SHR-12

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Ed Welsh
Van Waters & Rogers
28401 Richmond Road
Bedford Heights, Ohio 44135

Re: Notice of Violation
Van Waters & Rogers
DND 071 107 791

Dear Mr. Welsh:

On January 27, 1988, the Ohio Environmental Protection Agency (OEPA), representing the United States Environmental Protection Agency (U.S. EPA), conducted a Resource Conservation and Recovery Act (RCRA) inspection of the above referenced facility. The purpose of the inspection was to determine the compliance status of this facility with respect to the applicable hazardous waste management requirements of RCRA, including the land disposal restrictions of certain spent solvents (F001-F006) and dioxins which became effective on November 8, 1986, and certain hazardous wastes commonly referred to as California list wastes which became effective on July 8, 1987. Regulations are set forth in 40 CFR Part 268 and in revisions to 40 CFR Parts 260-265, 270, and 271.

As a result of the inspection, we have determined that the requirements of the land disposal restriction regulations are being violated.

The facility did not revise its waste analysis plan to meet the requirements of 40 CFR Part 268, as required under 40 CFR Part 265.13. Waste analysis plans must contain all the information which must be known to treat, store, or dispose of the waste in accordance with the requirements of 40 CFR Parts 265.13, and 268. Please provide this office with a copy of your revised waste analysis plan addressing the requirements of 40 CFR Part 268.

A copy of the inspection report is enclosed for your records. Please submit to this office, within thirty (30) days of receipt of this Notice of Violation, documentation demonstrating that the above-cited violation has been corrected and indicating what measures have been initiated to assure future compliance. Failure to correct the violation may subject the facility to further Federal enforcement action.

Please direct your response or any questions you may have regarding this letter to Ms. Ann Rudich of my staff at (312) 353-6844.

Sincerely yours,

Sally E. Swanson, Chief
IT/DO Enforcement Program Section

Enclosure

cc: Mike Savage, DPA
Sheryl Stone, PER
Robert Hickman

bcc: Sally Swanson, PER

5HP-12:PCRA:A.BUDICH:Lt:9/14/88:DISK #2 FORM

INIT. DATE	TYP.	AUTH.	FILED TYPED INDEXED	SEARCHED	SERIALIZED	O.R. A.D.D.	WMD DIR
		als 9-20-88			SKS 9-22-88		

RCRA LAND DISPOSAL RESTRICTION INSPECTION

Facility: VAN WATERS & ROGERS

U.S. EPA I.D. No.: CHD 071107791

Street: 26601 RICHMOND RD.

City: BEDFORD HTS. State: CHIO Zip Code: 44146

Telephone: 216-425-4330

Operator: ED WELSH, OPERATIONS MGR

Street: (SAME)

City: _____ State: _____ Zip Code: _____

Telephone: _____

Owner: VAN WATERS & ROGERS

Street: 1686 E. HIGHLAND

City: TWINSBURG State: CHIO Zip Code: 44087

Telephone: 216-425

Inspection Date: 2/11/88 Time: 8:30-2:00 Weather Conditions: RAINY

	<u>Name</u>	<u>Affiliation</u>	<u>Telephone</u>
Inspectors:	<u>SHERYL K SCOFF</u>	<u>CHIO EPA NEDO</u>	<u>216-425-9171</u>

Facility Representatives: ED WELSH

	<u>RCRA Status</u>	<u>F-Solvent</u>	<u>LDR Status</u> <u>California List</u>
Generator	<u>✓</u>	<u>✓</u>	_____
Transporter	<u>✓</u>	<u>✓</u>	_____
Treater	_____	_____	_____
Storer	<u>✓</u>	<u>✓</u>	_____
Disposer	_____	_____	_____

INSPECTION SUMMARY

RCRA LAND DISPOSAL RESTRICTION INSPECTION
APPLICABILITY CHECKLIST

Does the facility handle the following wastes?

		Gen.	Treat	Store	Disp.	Trans.
A.	<u>F-Solvent Wastes</u>					
1.	F001	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2.	F002	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3.	F003	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4.	F004	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5.	F005	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Note: Use Appendix A to determine whether the facility is misclassifying any of its wastes.

B. California List Wastes N.A.

1. Liquid hazardous waste (including free liquids associated with any solid or sludge) that contains the following metals at concentrations greater than or equal to those specified

		Gen.	Treat	Store	Disp.	Trans.
Arsenic	500 mg/L	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Cadmium	100 mg/L	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chromium VI	500 mg/L	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lead	500 mg/L	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mercury	20 mg/L	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Nickel	134 mg/L	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Selenium	100 mg/L	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Thallium	130 mg/L	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

2. Liquid hazardous waste (including free liquids associated with any solid or sludge) that contains free cyanides at concentrations greater than or equal to 1,000 mg/L NA

Gen.	Treat	Store	Disp.	Trans.
_____	_____	_____	_____	_____

3. Liquid hazardous waste that has a pH of less than or equal to 2.0 NA

_____	_____	_____	_____	_____
-------	-------	-------	-------	-------

4. Liquid hazardous waste that contains PCBs at concentrations greater than or equal to NA

50 ppm _____

500 ppm _____

Does the facility mix liquid hazardous waste that contains PCBs with other types of wastes?

_____ Yes _____ No _____ NA

If yes, state reasons for mixing:

5. Liquid hazardous waste that is primarily water and that contains HOCs greater than or equal to 1,000 mg/L (dilute HOC wastewater) and less than 10,000 mg/L NA

_____	_____	_____	_____	_____
-------	-------	-------	-------	-------

Note: The prohibitions of 268.32(a)(3) and (e) do not apply if the HOC waste is also subject to the solvent restrictions of 268 Subpart C or a specific HOC.

RCRA LAND DISPOSAL RESTRICTION INSPECTION

GENERATOR CHECKLIST

GENERATOR REQUIREMENTS

A. BDAT Treatability Group - Treatment Standards Identification

1. F-Solvent Wastes: Does the generator correctly determine the appropriate treatability group of the waste? *no wastes generated by this facility in 1987.*
☐ Yes ☐ No ☒ NA

If yes, check the appropriate treatability group.

- ☐ Wastewaters containing solvents (less than or equal to 1% TOC by weight)
☐ Pharmaceutical wastewater containing spent methylene chloride
☐ All other spent solvent wastes

2. California List Wastes: Does the generator correctly determine the appropriate treatment standard of the waste?

- a. For liquid hazardous waste that contains PCBs at concentrations greater than or equal to 50 but less 500 ppm, is the treatment in accordance with existing TSCA thermal treatment regulations for burning in high efficiency boilers (40 CFR 761.60) or incineration (40 CFR 761.70)?

☐ Yes ☐ No ☒ NA

If yes, specify the method: _____

- b. For liquid hazardous waste that contains PCBs at concentrations greater than or equal to 500 ppm, is the waste incinerated or disposed of by other approved alternate methods (40 CFR 761.60 (e))?

☐ Yes ☐ No ☒ NA

If yes, specify the method and state whether the facility has submitted a written request to the Regional Administrator or Assistant Administrator for an exemption from the incineration requirement:

GEN

B. Waste Analysis

No wastes were generated by this facility in 1987. They acted as a storage/transporter facility with no wastes stored longer than 10 days.

1. F-Solvent Wastes

- a. Does the generator determine whether the F-solvent waste exceeds treatment standards?

☐ Yes ☐ No ☒ NA

How was this determination made?

- Knowledge of waste

☐ Yes ☐ No

If yes, note how this is adequate: _____

- TCLP

☐ Yes ☐ No

If yes, provide the date of last test, the frequency of testing, and note any problems. Attach test results.

- b. Does the F-solvent waste exceed applicable treatability group treatment standards upon generation [268.7(a)(2)]?

☐ Yes ☐ No ☒ NA

If yes, specify the waste stream: _____

- c. Does the generator dilute the F-solvent waste as a substitute for adequate treatment [268.3]?

☐ Yes ☐ No ☒ NA

- d. How does the generator test F-solvent waste when a process or waste stream changes?

2. California List Wastes

- a. Does the generator determine whether the waste is a liquid according to the Paint Filter Liquids Test (PFLT method 9095) as described by SW-846?

☐ Yes ☐ No ☒ NA

- b. If the waste is determined to be a liquid according to PFLT, is an absorbent added to the waste?

____ Yes ____ No / NA

What type of absorbent is used? _____

Check the types of waste to which absorbent is added.

____ Liquid hazardous waste having a pH less than or equal to 2

____ Liquid hazardous waste containing HOCs in concentrations greater than or equal to 1,000 mg/L, but less than 10,000 mg/L

____ Liquid hazardous waste containing metals

____ Liquid hazardous waste containing free cyanides

- c. Does the generator determine whether the concentration levels (not extract or filtrate) in the waste equal or exceed the prohibition levels or whether the waste has a pH of less than or equal to 2.0 based on:

- Knowledge of wastes

____ Yes ____ No / NA

If yes, note how this is adequate: _____

- Testing

____ Yes ____ No / NA

If yes, list test method used: _____

- d. Does the generator determine if concentration levels in PFLT extract exceed cyanide and metals concentration levels?

____ Yes ____ No / NA

- If yes, list test method used and constituent and concentration levels that exceeded prohibition levels: _____

- e. Does the generator dilute the waste as a substitute for adequate treatment [268.3]?

____ Yes ____ No / NA

C. Management**1. On-Site Management**

Is waste that exceeds the treatment standards treated, stored, or disposed on-site?

☒ Yes ☐ No

If yes, the TSD Checklist must be completed.

2. Off-Site Management N.A.

- a. Does the generator ship any waste that exceeds the treatment standards to an off-site treatment or storage facility?

☐ Yes ☐ No

If yes, does the generator provide notification to the treatment or storage facility [268.7(a)(1)]?

☐ Yes ☐ No

If yes, does notification contain the following?

EPA Hazardous waste number(s) ☐ Yes ☐ No

Applicable treatment standards ☐ Yes ☐ No

Manifest number ☐ Yes ☐ No

Waste analysis data, if available ☐ Yes ☐ No

Identify off-site treatment or storage facilities: _____

- b. Does the generator ship any waste that meets the treatment standards to an off-site disposal facility?

☐ Yes ☐ No

If yes, does the generator provide notification and certification to the disposal facility [268.7(a)(2)]?

☐ Yes ☐ No

If yes, does notification contain the following? NA

EPA Hazardous waste number(s)	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Applicable treatment standards	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Manifest number	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Waste analysis data, if available	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Certification that the waste meets treatment standards	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Identify off-site land disposal facilities: _____

- c. If the waste is subject to a nationwide variance (e.g., solvent-water mixtures less than 1%), extension (268.5), or petition (268.6), does the generator provide notification to the off-site disposal facility that the waste is exempt from land disposal restrictions [268.7(a)(3)]?

☐ Yes ☐ No ☒ NA

D. Treatment Using RCRA 264/265 Exempt Units or Processes NA
 (i.e., boilers, furnaces, distillation units, wastewater treatment tanks, elementary neutralization, etc.)

Are treatment residuals generated from units or processes exempt under RCRA 264/265?

☐ Yes ☐ No

If yes, list types of waste treatment units and processes:

RCRA LAND DISPOSAL RESTRICTION INSPECTION

TRANSPORTER CHECKLIST

TRANSPORTER REQUIREMENTS

- A. Does the transporter accumulate waste for more than 10 days [268.50(A)(3)]? *(But not in 1987)*

☒ Yes ☐ No

If yes, check the appropriate regulatory status:

☒ Interim status for storage & Ohio H.W.F.B. Permit
☐ RCRA permit for storage

If no, describe inventory controls to ensure that wastes are not stored for more than 10 days: _____

- B. Does the transporter mix, combine, or recontainerize wastes?

☐ Yes ☒ No

- C. Is the waste treated in an exempt treatment process on-site?

☐ Yes ☒ No

TSD REQUIREMENTS

1. Does the waste analysis plan cover Part 268 requirements [264.13 or 265.13]?

☐ California List ☐ Yes ☐ No ☒ NA

2. Does the facility obtain representative chemical and physical analyses of wastes and residues?

✓ Yes No

a. What date was the waste analysis plan last revised? 12/30/86

b. Are analyses conducted on-site or off-site? *of 264.13(a) and 268.*

On-site ☒ Off-site

Identify off-site lab: SAFETY KLEEN ENVROSYSTEMS
NEW CASTLE, RO

c. Is F-solvent waste analyzed using TCLP?

 Yes 1 No NA

d. Describe the frequency of sampling: with each disjunct

e. Describe procedures used to identify manifest discrepancies:

visual inspections, use checklist to check
shipments

3. Are the operating records, including analyses and quantities, complete [264.73/265.73]?

 Yes No

copies of generator's notices of treatment standards or certifications that waste complies with treatment standards were not available in the operating record. Revised 11-03-87

B. Storage (268.50)

1. Are restricted wastes stored on-site?

☒ Yes ☐ No (*less than 10 days in 1987*)

If no, go to C, Treatment in Surface Impoundments.

2. If yes, check the appropriate method.

☒ Tanks
☒ Containers

3. Are all containers clearly marked to identify the contents and date(s) entering storage?

☐ Yes ☐ No ☒ NA

No containers were in storage at inspection

4. Do operating records track the location, quantity of the wastes, and dates that the wastes enter and leave storage?

☒ Yes ☐ No

5. Do operating records agree with container labeling?
- None in storage*

☐ Yes ☐ No ☒ NA

6. Have wastes been stored for more than 1 year since the applicable LDR regulations went into effect?

☐ Yes ☒ No ☐ NA

If yes, can the facility show that such accumulation is necessary to facilitate proper recovery, treatment, or disposal?

☐ Yes ☐ No

If yes, state how: _____

7. Have tanks been emptied at least once per year since the applicable LDR regulations went into effect?

____ Yes ____ No ☒ NA

If yes, do the operating records show that the volume of waste removed from tanks annually equals or is more than the tank volume?

____ Yes ____ No

8. Are all tanks clearly marked with a description of the contents, the quantity of wastes received, and date(s) entering storage, or is such information recorded and maintained in the operating record?

____ Yes ____ No ☒ NA

C. Treatment NA

1. Does the facility treat restricted wastes other than in surface impoundments?

____ Yes ☒ No

If no, go to D, Treatment in Surface Impoundments.

2. Describe the treatment processes:

None

3. Does the facility, in accordance with an acceptable waste analysis plan, determine whether the residue from all treatment processes is less than treatment standards [268.7(b)]?

____ Yes ____ No

4. Describe frequency of testing treatment residuals:

5. Is dilution used as a substitute for treatment?

____ Yes ____ No

6. Are notifications prepared by the generators kept in the facility's operating record? ☐ Yes ☐ No
7. Does the facility ship any waste or treatment residue that meets the treatment standards to an off-site disposal facility? ☐ Yes ☐ No ☐ NA

If yes, does the treatment facility provide notification and certification to the disposal facility?

☐ Yes ☐ No

If yes, does notification contain the following?

EPA Hazardous waste number(s)	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Applicable treatment standards	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Manifest number	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Waste analysis data, if available	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Certification that the waste meets the treatment standards	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Identify off-site disposal facilities: _____

D. Treatment in Surface Impoundments U.A.

1. Are restricted wastes placed in surface impoundments for treatment? ☐ Yes ☒ No

If no, go to E, Land Disposal.

2. If yes, did the facility submit to the Agency the waste analysis plan and certification of compliance with minimum technology and ground-water monitoring requirements? ☐ Yes ☐ No

3. If the minimum technology requirements have not been met, has a waiver been granted for that unit?
- _____ Yes _____ No
4. Are representative samples of the sludge and supernatant from the surface impoundment tested separately, acceptably, and in accordance with the sampling frequency and analysis specified in the waste analysis plan?

_____ Yes _____ No

Attach test results.

5. Do the hazardous waste residues (sludges or liquids) exceed the treatment standards specified in 268.41?
- _____ Yes _____ No
6. Provide the frequency of analyses conducted on treatment residues: _____

7. Does the operating record adequately document the results of waste analyses performed in accordance with 268.41?

_____ Yes _____ No

8. Are the hazardous waste residues that exceed the treatment standards (268.41) removed adequately and on an annual basis?

Sludge _____ Yes _____ No

Supernatant _____ Yes _____ No

- a. If no, and supernatant is determined to exceed treatment concentrations, is annual volume of liquid flowing through the impoundment greater than the impoundment volume?

_____ Yes _____ No

- b. Are adequate precautions taken to protect liners, and do records indicate that liner integrity is inspected?

_____ Yes _____ No

- c. Are residues subsequently managed in another surface impoundment?

_____ Yes _____ No

- d. Are residues treated prior to disposal?

_____ Yes _____ No

If yes, are waste residues treated on-site or off-site?

_____ On-site _____ Off-site

Identify treatment method: _____

E. Land Disposal N/A.

1. Are restricted wastes placed in land disposal units such as landfills, surface impoundments waste piles, wells, land treatment units, salt domes/beds, mines/caves, or concrete vault or bunker?

_____ Yes _____ ☒ No

Note: Do not include surface impoundments addressed in D, Treatment in Surface Impoundments.

If yes, specify which units and what wastes each unit has received: _____

2. Does the facility operating record have notices and certifications from generators/storer/treaters [268.7(c); 268.7(a),(b)]?

_____ Yes _____ No

3. Does the facility obtain waste analysis data or test the wastes (according to the waste analysis plan) to determine that the wastes comply with the applicable treatment standards [268.7(c)]?

_____ Yes _____ No

If yes, at what frequency? _____

4. If restricted wastes that exceed the treatment standards are placed in land disposal units (excluding national capacity variances) [268.30(a)], does facility have an approved waiver based on no migration petition [268.6], an approved case-by-case capacity extension [268.5], or variance [268.44]?

_____ Yes _____ No

5. Does the facility dispose of restricted wastes that are subject to a national capacity variance?

_____ Yes _____ No

If yes, are these wastes disposed of in a new, replacement, or laterally expanded landfill or impoundment that meets the minimum technology requirements (double liner and leachate collection)?

_____ Yes _____ No

6. Does the facility have notices [268.7(a)(3)] and records of disposal for disposed wastes that are subject to a national capacity variance, case-by-case extensions [268.5], or no migration petitions [268.6]?

_____ Yes _____ No _____ NA

7. What is the volume of the restricted wastes disposed of to date?

8. If the facility has a case-by-case extension, is the facility making progress as described in progress reports?

_____ Yes _____ No _____ NA

APPENDIX A

SOLVENT IDENTIFICATION CHECKLIST

1. Does the handler generate any of the following F001 constituents (i.e., spent halogenated solvents used in degreasing) as a result of being used in the process either in pure form or commercial grade?

tetrachloroethylene	<input type="checkbox"/> Yes	<input type="checkbox"/> No
trichloroethylene	<input type="checkbox"/> Yes	<input type="checkbox"/> No
methylene chloride	<input type="checkbox"/> Yes	<input type="checkbox"/> No
1,1,1-trichloroethane	<input type="checkbox"/> Yes	<input type="checkbox"/> No
carbon tetrachloride	<input type="checkbox"/> Yes	<input type="checkbox"/> No
chlorinated fluorocarbons	<input type="checkbox"/> Yes	<input type="checkbox"/> No

2. Does the handler generate any of the following F002 constituents (i.e., spent halogenated solvents) as a result of being used in the process either in pure form or commercial grade?

tetrachloroethylene	<input type="checkbox"/> Yes	<input type="checkbox"/> No
trichloroethylene	<input type="checkbox"/> Yes	<input type="checkbox"/> No
methylene chloride	<input type="checkbox"/> Yes	<input type="checkbox"/> No
1,1,1-trichloroethane	<input type="checkbox"/> Yes	<input type="checkbox"/> No
chlorobenzene	<input type="checkbox"/> Yes	<input type="checkbox"/> No
trichlorofluoromethane	<input type="checkbox"/> Yes	<input type="checkbox"/> No
1,1,2-trichloro-1,2,2-trifluoroethane	<input type="checkbox"/> Yes	<input type="checkbox"/> No
ortho-dichlorobenzene	<input type="checkbox"/> Yes	<input type="checkbox"/> No

3. Does the handler generate any of the following F003 constituents (i.e., spent nonhalogenated solvents) as a result of being used in the process either in pure form or commercial grade?

xylene	<input type="checkbox"/> Yes	<input type="checkbox"/> No
acetone	<input type="checkbox"/> Yes	<input type="checkbox"/> No
ethyl acetate	<input type="checkbox"/> Yes	<input type="checkbox"/> No
ethyl benzene	<input type="checkbox"/> Yes	<input type="checkbox"/> No
ethyl ether	<input type="checkbox"/> Yes	<input type="checkbox"/> No
methyl isobutyl ketone	<input type="checkbox"/> Yes	<input type="checkbox"/> No
n-butyl alcohol	<input type="checkbox"/> Yes	<input type="checkbox"/> No
cyclohexanone	<input type="checkbox"/> Yes	<input type="checkbox"/> No
methanol	<input type="checkbox"/> Yes	<input type="checkbox"/> No

If the F003 waste stream has been mixed with a solid waste, does the resultant mixture exhibit the ignitability characteristic?

☐ Yes ☐ No

4. Does the handler generate any of the following F004 constituents (i.e., spent nonhalogenated solvents) as a result of being used in the process either in pure form or commercial grade?

cresols and cresylic acid
nitrobenzene

___Yes ___No
___Yes ___No

5. Does the handler generate any of the following F005 constituents (i.e., spent nonhalogenated solvents) as a result of being used in the process either in pure form or commercial grade?

toluene
methyl ethyl ketone
carbon disulfide
isobutanol
pyridine

___Yes ___No
___Yes ___No
___Yes ___No
___Yes ___No
___Yes ___No

6. Are any of the constituents listed in questions 1 through 5 used for their "solvent" properties -- that is to solubilize (dissolve) or mobilize other constituents? The following questions will be helpful in confirming this determination.

(a) Are the constituents used as chemical carriers?

___Yes ___No

If yes, list the constituents.

(b) Are the constituents used for degreasing/cleaning?

___Yes ___No

If yes, list the constituents.

(c) Are the constituents used as diluents?

___Yes ___No

If yes, list the constituents.

(d) Are the constituents used as extractants?

___Yes ___No

If yes, list the constituents.

(e) Are the constituents used for fabric scouring?

____ Yes ____ No

If yes, list the constituents.

(f) Are the constituents used as reaction and synthesis media?

____ Yes ____ No

If yes, list the constituents.

If the responses to questions 1 through 6 led the inspector to believe that the waste may be an F-solvent, answer question 7.

7. Are any of the above constituents spent solvents? (A solvent is considered "spent" when it has been used and is no longer usable without being regenerated, reclaimed, or otherwise reprocessed.)

____ Yes ____ No

8. If the waste is a mixture of constituents as determined in questions 1 through 6, give the concentration before use of all the constituents in the solvent mixture/blend. For example:

5%	methylene chloride
2%	trichloroethylene
25%	1,1,1-trichloroethane
<u>68%</u>	mineral spirits
100%	

If the waste stream is a mixture containing a total of 10% or more (by volume) of one or more of the F001, F002, F004, or F005 listed constituents before use, it is a listed waste.

With respect to the F003 solvent wastes, if, before use, the waste stream is mixed and contains only F003 constituents, it is a listed waste. For example:

33%	acetone
16%	methanol
<u>51%</u>	ethyl ether
100%	

If the waste stream is a mixture containing F003 constituents and a total of 10% or more of one or more of the F001, F002, F004, and F005 listed constituents before use, it is a listed waste. For example:

50%	xylene (F003)
12%	TCE (F001)
<u>38%</u>	mineral spirits
100%	

If in light of the above, the handler appears to be generating F001 - F005 hazardous wastes, refer this facility to the enforcement official for followup actions verifying the use of solvents at the facility.

APPENDIX B
TREATMENT STANDARDS FOR F-SOLVENTS

F001-F005 SPENT SOLVENTS	CONCENTRATION (IN MG/L)	
	WASTEWATERS	OTHER WASTES
Acetone	0.05	0.59
N-butyl	5.0	5.0
Carbon disulfide	1.05	4.81
Carbon tetrachloride	.05	.96
Chlorobenzene	.15	.05
Cresols (and cresylic acid)	2.82	.75
Cyclohexanone	.125	.75
1,2-dichlorobenzene	.65	.125
Ethyl acetate	.05	.75
Ethyl benzene	.05	.053
Ethyl ether	.05	.75
Isobutanol	5.0	5.0
Methanol	.25	.75
Methylene chloride	.20	.96
Methylene chloride (from the pharmaceutical industry)	12.7	.96
Methyl ethyl ketone	0.05	0.75
Methyl isobutyl ketone	0.05	.33
Nitrobenzene	0.66	0.125
Pyridine	1.12	0.33
Tetrachloroethylene	0.079	0.05
Toluene	1.12	0.33
1,1,1-Trichloroethane	1.05	0.41
1,2,2-Trichlor 1,2,2-trifluoroethane	1.05	0.96
Trichloroethylene	0.062	0.091
Trichlorofluoromethane	0.05	0.96
Xylene	0.05	0.15

Wastes shipped to:

TSD NAME LOCATION EPA ID NO.	TYPE OF FACILITY T/D METHODS	WASTE CODE	WASTE QUANTITY	COMMENTS (shipment dates, waste descriptions, etc.)



State of Ohio Environmental Protection Agency

Northeast District Office

21 Aurora Road
Twinsburg, Ohio 44087-1969
(216) 425-9171

US-13, 15, 16, 52, 53, 71, 73



Richard F. Celeste
Governor

February 25, 1988

RE: VAN WATERS & ROGERS
(FORMERLY MCKESSON
CHEMICAL CO.)
CUYAHOGA COUNTY
BEDFORD HTS.
OHD 961-107-791
01-18-0628/G-T-TSD

Van Waters & Rogers
26601 Richmond Road
Bedford Hts., Ohio 44146

Attn: Ed Welsh

Dear Mr. Welsh:

Thank you for cooperating with my recent hazardous waste inspection. I conducted an inspection of the physical facility on January 27, 1988, but no records or files were available at the facility. On February 1, 1988, I reviewed the files and records which have been moved to the Van Waters and Rogers facility in Twinsburg. Enclosed is a copy of the inspection reports. The following violations and/or concerns were found.

1. The waste analysis plan, inspection schedule, personnel training program, contingency plan, manifests, operating record which would include waste analyses, restricted waste notifications/certifications, inspection logs, closure cost estimates, etc., and closure plan were not available at the facility. (40 CFR 264.13, 15, 16, 53, 71, 73/OAC 3745-54-13, 15, 16, 53, 71, 73)
2. The employees' names filling all hazardous waste positions, in particular the warehouse men, supervisor and truck driver were not listed. (40 CFR 265.16/OAC 3745-54-16) Please submit a complete list of employees' names filling these positions.
3. The list of emergency coordinators, addresses and phone numbers needs to be updated and revisions submitted local police departments, fire department, hospitals and emergency response teams that may be called upon to provide emergency services. (40 CFR 264.52, 53/OAC 3745-54-52, 53) Submit the revised portions of the contingency plan to this office with certified mail receipts showing the revised plan has been sent to the other authorities.

RECEIVED

JUL 12 1988

OFFICE OF RCRA
Waste Management Division
U.S. EPA, REGION V.

- 3745-66-42
4. Closure cost estimates were given as \$10,560.00 on March 10, 1987, but were given as \$12,565 on June 27, 1986. Please justify how the closure cost was reduced.
 5. The waste analysis plan needs to be revised to specify the methods used to meet the additional waste analysis requirements of 268. (40 CFR 264.13/OAC 3745-54-13) Submit the revised portions of the waste analysis plan.
 6. Copies of generators' notices of treatment standards or certifications that their wastes comply with the specified treatment standards were not in the operating record. (40 CFR 264.73)

Please address each of the above violations and submit related documentation to demonstrate that your facility has returned to compliance within 30 days of the date of this letter. Be advised the financial requirements are reviewed by our Central Office Staff.

Please, also be advised you continue to be in violation of conditions A.26(b) and C.7 of your Ohio Hazardous Waste Facility Installation and Operation Permit and of OAC 3745-50-58. (Refer to my letter to Mr. Robert Hickman dated August 13, 1987). Since then I have received three letters from Mr. Hickman indicating that this facility would close, the closure plan would be submitted to OEPA by August 29, 1987, that no hazardous wastes would be stored at this facility after September 2, 1987, and that the permit would be transferred to the new owner. To date none of these items has occurred. The time for compliance with the conditions of your permit issued in 1985 is long overdue! Please submit the drawing as required by your permit immediately. If it is not received within 5 days of the date of this letter I will be force to initiate an enforcement referral.

Ken
Burch
SPS

McKesson

February 28, 1986

Mr. David A. Stringham
U.S. EPA, Region V
230 South Dearborn Street
Chicago, IL 60604

RECEIVED

MAR 14 1986

**SOLID WASTE BRANCH
U.S. EPA, REGION V**

RE: McKesson Chemical Facility
26601 Richmond Road
Bedford Heights, OH 44146
OHD071107791

Dear Mr. Stringham:

This will acknowledge receipt of the information request directed to our facility located at the subject address.

We are presently reviewing our RCRA files on this subject and compiling information requested in your letter. Since we have many locations in different areas of the country, it is important to us to develop a consistent approach to these information requests.

Accordingly, we request that the response deadline for this request be extended by 30 days.

Thank you for your cooperation.

Very truly yours,

McKESSON CHEMICAL COMPANY

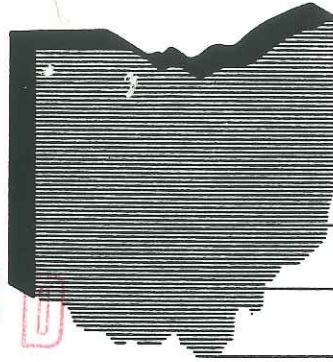


Robert D. Hickman
Regional Compliance Manager

RDH:be

COPY 2

Issue Date ~~6/21/85~~
Eff: 7/18/85



OHIO
Hazardous
Waste
Facility
Board

RECEIVED

AUG 14 1985

Richard F. Celeste, Governor

SWB-AIS
U.S. EPA, REGION V

P.O. Box 1049, 361 E. Broad St., Columbus, Ohio 43216 (614) 462-6981

MEMORANDUM

05-18-0628
OHD071107791

TO: DISTRIBUTION: Parties to McKesson Chemical Company,
Bedford Heights Facility, Case No.: 83-NF-0628

FROM: *WY* Edwin Y. Lim, Acting Executive Director

DATE: July 18, 1985

SUBJECT: Transmittal of WRITTEN OPINION AND FINAL ORDER and
HAZARDOUS WASTE FACILITY INSTALLATION AND OPERATION PERMIT

Transmitted herewith is a certified copy of the WRITTEN OPINION AND FINAL ORDER and Hazardous Waste Facility Installation and Operation Permit issued to the McKesson Chemical Company, Bedford Heights facility, Case No.: 83-NF-0628, Permit No.: 05-31-0628. You are hereby advised that appeal rights are found in the document.

If you have any questions concerning this matter, please contact me at (614) 462-6981.

Distribution:

Mr. Dale Vitale
Ohio Attorney General's Office
The Cuyahoga County Board of Commissioners
Timothy Hagan, President
The Honorable Jimmy C. Dimora
Mayor of Bedford Heights
Mr. George R. Nickerson
Attorney at Law
Scott, Walker & Kuehnle
Ms. Virginia Aveni
Ohio EPA Staff
Mr. Donald M. Black
McKesson Chemical Company

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OHIO EPA

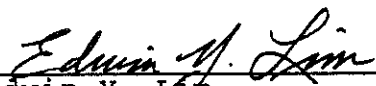
JUL 19 1985

Div. of SOLID & HAZ. WASTE MGT

cc: Steve White, Chief DSHWM, Ohio EPA

CERTIFICATION

I hereby certify that the foregoing is a true and accurate copy of the
WRITTEN OPINION AND FINAL ORDER and HAZARDOUS WASTE FACILITY
INSTALLATION AND OPERATION PERMIT issued to the McKesson Chemical
Company for its hazardous waste facility located at 26601 Richmond
Road, Bedford Heights, Ohio, Case No.: 83-NF-0628, Permit No.:
05-31-0628, entered into the Board on the 18th day of July, 1985.



Edwin Y. Lim
Acting Executive Director
Custodian of the Journal of the
Hazardous Waste Facility Board

Dated this 18 day of July, 1985 at Columbus, Ohio.

CERTIFICATE OF SERVICE

I hereby certify that I served a certified copy of the foregoing OPINION AND FINAL ORDER issuing a hazardous waste facility installation and operation permit to the McKesson Chemical Company for a hazardous waste facility to be located at 26601 Richmond Road, Bedford Heights, Ohio, Case No. 83-NF-0628, by mailing a copy, certified mail, return receipt requested, postage prepaid, this 19 day of July, 1985 to the following attorneys and parties of record.

Martha E. Horvitz
Dale T. Vitale
Assistant Attorneys General
Environmental Enforcement Section
Ohio Attorney General's Office
30 East Broad Street, 17th Floor
Columbus, Ohio 43215


Ohio EPA Staff
c/o Ms. Virginia Aveni
Deputy Director
Ohio EPA
361 East Broad Street
Columbus, Ohio 43215

George R. Nickerson
Scott, Walker and Kuehnle
50 West Broad Street
Columbus, Ohio 43215

Dr. Donald M. Black
McKesson Chemical Company
P.O. Box 266
306 State Street
North Haven, CT 06743

Cuyahoga County Board of
Commissioners
1212 Ontario Street
Cleveland, Ohio 44113

The Honorable Jimmy C. Dimora
Mayor
City of Bedford Heights
5661 Perkins Road
Bedford Heights, Ohio 44146


EDWIN Y. LIM
Acting Executive Director
Ohio Hazardous Waste Facility Board

STATE OF OHIO

HAZARDOUS WASTE FACILITY BOARD

OPINION AND FINAL ORDER

MCKESSON CHEMICAL COMPANY

BEDFORD HEIGHTS FACILITY

CASE NO. 83-NF-0628

Issued: June 21, 1985

Entered in the Journal:

HAZARDOUS WASTE FACILITY
APPROVAL BOARD

JUL 18 1985

ENTERED BOARD'S JOURNAL

HAZARDOUS WASTE FACILITY
APPROVAL BOARD

JUL 18 1985

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APPROVAL BOARD

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STATUTORY PARTIES

APPEARANCES ON BEHALF OF PARTIES

Martha E. Horvitz
Dale T. Vitale
Assistant Attorneys General
Environmental Enforcement Section
Ohio Attorney General's Office
State Office Tower - 17th Floor
30 East Broad Street
Columbus, Ohio 43215

on behalf of the State of Ohio
Environmental Protection Agency

George R. Nickerson
Thomas H. Grace
Scott, Walker, & Kuehnle
50 West Broad Street
Columbus, Ohio 43215

on behalf of McKesson Chemical Company

PARTIES NOT APPEARING

The Honorable Jimmy C. Dimora
Mayor
City of Bedford Heights
5661 Perkins Road
Bedford Heights, Ohio 44146

Cuyahoga County Board of Commissioners
1212 Ontario Street
Cleveland, Ohio 44113

HAZARDOUS WASTE FACILITY
APPROVAL BOARD

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1

BEFORE THE
HAZARDOUS WASTE FACILITY BOARD
STATE OF OHIO

In the Matter of

:

McKesson Chemical Company
Bedford Heights, Ohio

:

Case No. 83-NF-0628

OPINION AND FINAL ORDER

BY THE OHIO HAZARDOUS WASTE FACILITY BOARD

OPINION

McKesson Chemical Company ("Applicant"), a division of McKesson Corporation, has applied pursuant to R.C. Chapter 3734 for a hazardous waste facility installation and operation permit ("hazardous waste permit" or "permit") for a hazardous waste facility to be located at 26601 Richmond Road, Bedford Heights, Ohio.

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JURISDICTION OF THE BOARD

The Ohio Hazardous Waste Facility Board ("Board") derives its authority to act upon an application for a hazardous waste permit from R.C. Chapter 3734, including Sections 3734.02 (E), 3734.05 (C)(2)(b), and 3734.05 (C)(6).

The McKesson Chemical Company submitted an application for a hazardous waste permit to the Ohio Environmental Protection Agency ("Ohio EPA" or "Agency") which has, pursuant to R.C. Section 3734.05 (C)(3), acknowledged the application to be complete and prepared a preliminary staff determination indicating that the application appears to comply with Agency rules and to meet the performance standards set forth in R.C. Section 3734.12 (D). The Ohio EPA has subsequently transmitted the application and associated documents to the Board.

The transfer of the application to the Board is in compliance with the statute and the Board, therefore, has jurisdiction to hear and decide this matter.

ISSUES IN DISPUTE BETWEEN THE PARTIES

The Applicant and the Ohio EPA, the only parties actively participating in this case, have stated their agreement at the March 19, 1984, prehearing conference that there are no disputed issues between the parties respecting the approval of the permit application.

AUTHORITY FOR AN ADJUDICATION PANEL

The Administrative Law Judge, for the purpose of conducting an adjudication hearing, may select additional members of the Board staff to serve with him as an adjudication panel. The panel is to provide assistance in hearing and deciding the case, and preparing a written report and recommendation. O.A.C. Rule 3734-1-07 (D).

ADJUDICATION PANEL'S DUTIES IN ACCORDANCE WITH R.C. CHAPTER 119

The Adjudication Panel ("Panel") must submit to the Board a written report setting forth its findings of fact, conclusions of law and a recommendation of the action to be taken. A copy of the report must be served upon all parties who may, within ten days after its receipt, file written objections. R.C. Section 119.09.

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SUMMARY OF THE ADJUDICATION PANEL'S RECOMMENDATION

The Panel recommended the following:

- (1) Approve the application as indicated in the Report and Recommendation; and
- (2) Adopt the stipulated findings of fact, special terms and conditions, and conclusions of law with certain deletions, modifications, additions, and comments. Report and Recommendation of the Adjudication Panel ("Report") at 7.

The Panel could not reach a consensus concerning: (1) the adequacy of the waste analysis plan and included in the report the recommendation of each Panel member (Report at 10 and 11); and (2) the appropriate term and condition to remedy a deficiency that it found with respect to the location of the fire hydrant (Report at 41-43).

BOARD'S DUTIES IN ACCORDANCE WITH R.C. CHAPTER 119

The written objections to the report filed by the parties must be considered by the Board before it approves, modifies, or disapproves the recommendation of the Panel. The action of the Board is required to be based upon the official record of the proceedings and any modification or disapproval of the recommendations of the Panel must include in the record the reasons for such action. R.C. Section 119.09.

BOARD'S DUTIES IN ACCORDANCE WITH R.C. CHAPTER 3734

The Board shall not approve an application for a hazardous waste permit unless it finds and determines:

- (a) The nature and volume of the waste to be treated, stored, or disposed of at the facility;
- (b) That the facility complies with the Director's hazardous waste standards adopted pursuant to R.C. Section 3734.12;
- (c) That the facility represents the minimum adverse environmental impact, considering the state of available technology and the nature and economics of various alternatives, and other pertinent considerations;
- (d) That the facility represents the minimum risk of:
 - (i) contamination of ground and surface waters by leachate and runoff from the facility;

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(ii) fires or explosions from improper treatment, storage, or disposal methods; or

(iii) accident during transportation of hazardous waste to the facility; and

(e) That the facility will comply with R.C. Chapters 3704., 3734., and 6111. and all rules and standards adopted under these sections (sic). R.C. Section 3734.05 (C)(6)¹.

SUMMARY OF THE DECISION OF THE BOARD

The Board finds and determines the matters set forth in R.C. Section 3734.05 (C)(6) and issues a hazardous waste permit, with terms and conditions, to the McKesson Chemical Company for its proposed Bedford Heights, Ohio facility.

FINDINGS OF FACT

INTRODUCTION

In an administrative proceeding, as at a court trial, numerous facts are submitted into the record as evidence through oral testimony, written comments, direct and cross examination, pleadings, stipulations, and other forms of testimony or documentation. These are evidentiary facts and as a general rule, an administrative agency or trial court is not required to recite as findings of fact all evidentiary facts. However, the facts specifically required to be found are those material and relevant facts from which it can be determined whether the findings of fact are supported by evidence contained in the record. Once found, the findings of fact must support the conclusions of law and orders reached by the agency. (See Am Jur 2d, Trial §1251 (1975)) In the instant situation, a proper finding of fact is one that is relevant and material to the Board's findings and determinations on the matters set forth in R.C. Section 3734.05 (C) and supports the conclusions of law and orders.

¹The amendments to R.C. Section 3734.05 (C)(6) as provided for in Amended Substitute House Bill No. 506 (effective August 1, 1984) do not apply to this permit application as the application was transmitted to the Board prior to the effective date of the amendments to that section. Amended Substitute House Bill No 506, Section 5, effective August 1, 1984.

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CONCERNS RAISED AT THE PUBLIC HEARING

Citizens at the public hearing stated the following concerns: (1) improper disposition of buckets of unidentified liquids; (2) odors in the immediate vicinity of the facility; (3) location of the facility with respect to homes and zoning; (4) impact of facility hazardous waste activities on area creeks. These concerns are addressed in Findings of Fact Nos. 41B, 41C, 35, and 45B respectively.

OBJECTIONS OF THE PARTIES

The objections to the Report raised by the parties, can be classified into five substantive areas, i.e., (1) waste analysis plan and verification test; (2) the containment area; (3) visual and olfactory inspection; (4) the forty-two day container storage limitation; and (5) access to the fire hydrant. Each of these areas is discussed below:

WASTE ANALYSIS PLAN AND VERIFICATION TEST

The question of the adequacy of the Applicant's waste analysis plan (i.e., compliance with O.A.C. Rule 3745-54-13 (C)); the relationship between the proposed specific gravity verification test ("drum thumping") and the minimization of fires or explosions from improper treatment, storage, or disposal methods; and the inclusion of Recommended Term and Condition No. 9; were subjects upon which the Panel could not concur and resulted in the following three distinct recommendations (see McKesson Chemical Company-Evendale, Case No. 83-NF-0629, Report and Recommendation ("Evendale Report") at 16-29, as incorporated in Report at 11):

- (1) The waste analysis plan does not demonstrate compliance with O.A.C. Rule 3745-54-13 (C) and therefore necessitates a term and condition (No. 9) to be included in the permit. Evendale Report at 16 and 17, as incorporated in Report at 11;
- (2) The application fully meets the requirements of the rules governing waste analysis. Evendale Report at 18-20, as incorporated in Report at 11; or
- (3) While the waste analysis plan demonstrates compliance with O.A.C. Rule 3745-54-13 (C), the risk of explosion at the facility is not minimized (as it is required to be by the statutory prerequisite stated in R.C. Section 3734.05 (C)(6)(d)(ii)) either through compliance with any applicable R.C. Section 3734.12 standard or through implementation of any step in the record, and therefore necessitates the adoption of Term and Condition No. 9. Evendale Report at 20-28, as incorporated in Report at 11.

The parties are in agreement that the Applicant's waste analysis plan meets the requirements set forth in O.A.C. Rule 3745-54-13 and thus object to Recommended Term and Condition No. 9.

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Those requirements of O.A.C. Rule 3745-54-13 which pertain specifically to offsite facilities are set forth in paragraph (C):

...the waste analysis plan required in paragraph (B) of this rule shall also specify the procedures which will be used to inspect, and if necessary, analyze each movement of hazardous waste received at the facility to ensure that it matches the identity of the waste designated on the accompanying manifest or shipping paper. At a minimum, the plan shall describe:

(1) The procedures which will be used to determine the identity of each movement of waste managed at the facility; and

(2) The sampling method which will be used to obtain a representative sample of the waste to be identified, if the identification method includes sampling. (emphasis added)

The Board has reviewed the Applicant's waste analysis plan and considered the types of waste to be received at the facility, the process employed to manage the waste, and the manner in which the facility is operated. Based on this review and consideration the Board finds that the Applicant fully meets the requirements of the rules and statute governing the waste analysis plan. Additionally, as will be specified later in the OPINION, the Board finds that the facility represents the minimum risk of fires and explosions from improper treatment, storage, or disposal methods, therefore eliminating the justification of and the need for Recommended Term and Condition No. 9.

The Applicant's waste analysis plan, which commences before wastes are received at the facility, details responsibilities for generators, transport drivers and facility personnel. A generator (the prospective customer) is required to prepare a Spent Material/Waste Product Survey form and is strongly urged either to provide a formal laboratory analysis which it has performed or have an independent laboratory report prepared on the waste. If an analysis is not forthcoming or is inadequate, a sample will be taken at the generator's facility and sent to McKesson EnviroSystems Laboratory for analysis. A copy of the survey and any laboratory results or the sample is mailed to McKesson EnviroSystems, headquartered in Fort Wayne, Indiana, for evaluation to determine if the waste is economic and safe to acquire. Once McKesson EnviroSystems has made a determination that sufficient knowledge and reports on a particular waste stream are available, approval is given to accept the stream at the Bedford Heights facility. An approval checklist and laboratory report is provided to the facility.

The permit application includes waste analyses from previous customers which contain information regarding flash point, pH value, specific gravity, total percentage of chloride and

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sulfur, metallic content and an assay, as appropriate. It should be noted that the Applicant maintains records of ongoing chemical and physical analyses of existing customers' wastes.

The generator is further required to supply the Applicant with a completed manifest (except for items likely to change, e.g., number of containers, dates, signatures, and weights) for review by the Applicant prior to dispatching a driver. This is to ensure that the driver, who is a McKesson employee and under its supervision and control, has accurate information concerning the waste shipment to ensure its safe transportation to the facility.

At the time of arrival at the generator's facility, the driver must be presented with the original manifest by the generator's shipping personnel. The McKesson driver compares his photocopy of the generator's manifest, which was included with the pick-up notice, to the original presented. All items on the original should be complete with no modifications being allowed when compared with the driver's photocopy, other than quantity listing, dates, signatures, and weights. Any discrepancies such as an addition of different wastes, or questionable variations, shall result in the driver refusing acceptance of the wastes, unless such modifications are approved by phone conversation with McKesson Chemical Company management. Once the manifest is checked and approved the driver is further instructed to compare the waste to be transported with the listing on the manifest and evaluate each container for condition, locate the precautionary warning label, insure that no other label or stencil is on the container other than the hazardous waste label, and determine that the label is complete and that each container is essentially full. The driver will only transport the quantity and class of hazardous waste appearing on the manifest.

Upon arrival of the waste at the Applicant's facility a container or containers, depending on the amount of waste received, will be randomly selected and weighed. The specific gravity of the contents of the containers will be estimated by dividing the net weight of the contents of the container by the volume of the contents, estimated by thumping the side of the container. A rough verification of the chemical nature of the contents of the container can then be determined:

<u>Lbs/Gal.</u>	<u>Specific Gravity</u>	<u>Probable Chemical Species</u>
> 8.33	> 1.0	Halogenated (Cl, F)
8.33	1.0	Aqueous
< 8.33	< 1.0	Hydrocarbon, Oxygenated

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Upon completion of the weighing and verification of the estimated specific gravity of the waste, the employee conducting the verification will sign and document on the manifest the number of containers checked. If the waste received does not pass the verification check, the manifest will be so noted and the shipment refused.

This verification test is in addition to the Applicant's standard inspection policy of counting the number of containers received versus the manifested quantity, checking the labels to verify the product name to that specified on the manifest, and inspecting the condition of the containers to ensure their integrity. Concerns or inaccuracies in any of these areas will constitute grounds for the rejection of the shipment.

The Board further notes that the McKesson facility operates as a container storage (accumulation) and transfer site of spent solvents originally sold to McKesson customers, repurchased as waste, stored pending shipment for recycling, and ultimate resale to the customer. The type and quantity of waste to be managed is limited, as well as the time of storage, with all waste eventually transported to the McKesson recycling facility. Furthermore, the containers are maintained in a closed condition unless an unsafe container is found requiring transfer of its contents to another container.

After considering the proposed method of operation of the facility, the Board finds that the waste analysis plan of the Applicant ensures that each movement of hazardous waste received at the facility matches the identity of the waste designated on the accompanying manifest so that analysis is not necessary. Therefore, Recommended Term and Condition No. 9 can not be justified on this basis.

The Board determines that the facility represents the minimum risk of fires or explosions from improper treatment, storage or disposal methods. The findings of fact supporting this determination are set forth in the OPINION under FACTS RELATING TO R.C. SECTION 3734.05 (C)(6)(d).

In this regard, the Board does not find the justification for, or the necessity of, Recommended Term and Condition No. 9. The goals of enhanced public safety and minimum risk would not be served by requiring an analysis of the waste received at the facility, unless there exists good reason to believe that the waste are stored in an unsafe condition. The Applicant's waste management practices ensure that waste stored at the facility will be in appropriately sealed containers. Opening these containers involves breaking open the seals which have heretofore protected the public from the waste, and removing a portion of the waste for analysis presents needless exposure to the Applicant's employees and the public. Based upon the facts presented, this facility will be safest in its

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operation if, at the time that the containers leave the facility for recycling, not a single drop of waste has ever left the containers.

In conclusion, the waste analysis plan of the Applicant complies with the Director's hazardous waste standards and the facility represents the minimum risk of fires or explosions from improper treatment, storage, or disposal methods.

For the foregoing reasons, the Board disapproves Recommended Term and Condition No. 9.

CONTAINMENT SYSTEM

The Board determines that the Recommended Findings of Fact Nos. 8.r and 9.a (Report at 26 and 28) with respect to berm height are inconsistent in that the former states it to be a minimum of nine inches while the latter indicates it to be eight inches above the surface of the containment area. A review of the record indicates that the berm height is reported in different places of the application and the siting criteria document as six, eight, and nine inches. Permit application at 168, 426, 427 and 432; Siting Criteria Evaluation at O.R.C. 3734.05 (C)(6)(c) p. 2 and at O.R.C. 3734.05 (C)(6)(d)(i). This inconsistency could be caused by the imprecision of the terms that are used to report the dimensions. The Board finds the proper dimension of the berm to be nine inches above the surface of the containment area. It is this dimension that is the basis of the calculation of the containment system's design capacity. Permit application at 426 and 427.

With further regard to the design of the containment system, the Panel found that liquids draining from the roof of the warehouse and loading platform may accumulate in the containment system thereby jeopardizing the Applicant's plan to prevent overflow over the berm. (O.A.C. Rule 3745-50-44 (B)(1)(a)(v)). Report at 27. The Panel consequently recommended a term and condition (No. 7) that required the Applicant to either demonstrate that the facility's design prevents such drainage or erect such structures that would prevent its occurrence. Report at 40. The Board notes that that portion of the above cited rule which concerns the analysis of accumulated liquids is discussed below in this OPINION under VISUAL AND OLFACTORY INSPECTION.

The Board is of the opinion that Recommended Term and Condition No. 7 is too restrictive with respect to the problem identified by the Panel. A mandatory prohibition against the entry of such liquids into the bermed area is not necessary where an applicant can demonstrate that the accumulated liquids are removed to prevent overflow of the containment system.

HAZARDOUS WASTE FACILITY
APPROVAL BOARD

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For the foregoing reasons, the Board modifies Recommended Term and Condition No. 7 to read as follows:

The Permittee shall submit to the Ohio Environmental Protection Agency within sixty (60) days after permit issuance, for its approval: (i) a complete and accurate description of the containment area (including blueprints identical to the drawing on page 432 of the permit application except that the berm shall be nine inches above the surface of the containment area) and materials of construction of all components; (ii) a plan to remove accumulated liquid in the containment area to prevent overflow of the berm. Such plan shall take into consideration the liquids draining from the roof of the warehouse and the loading platform which may accumulate in the containment system.

VISUAL AND OLFACTORY INSPECTION

RELEASED MATERIAL AND EMERGENCY RESPONSE MATERIAL AND BY-PRODUCTS/EMERGENCY SHUTOFF VALVES

Pursuant to O.A.C. Rule 3745-50-44 (A)(7), a permit application must include a contingency plan which contains the requirements set forth in O.A.C. Rules 3745-54-50 to 3745-54-69. The contingency plan, in relationship to the issues at question, must:

(1) set forth a course of action designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface waters. In such instance, the provisions of the contingency plan must be implemented immediately. O.A.C. Rule 3745-54-51.

(2) describe the actions to be undertaken in response to an emergency at the facility. O.A.C. Rule 3745-54-52.

(3) whenever there is a release of hazardous waste or hazardous waste constituents, fire, or explosion, require that the emergency coordinator immediately identify the character, exact source, amount, and areal extent of any released materials. The coordinator may do this by observation or review of facility records or manifests, and if necessary, by chemical analysis. O.A.C. Rule 3745-54-56 (B).

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(4) immediately after the emergency, require that the emergency coordinator provide for treating, storing, or disposing of recovered waste, contaminated soil, or surface water, or any other material that results from a release, fire, or explosion at the facility. O.A.C. Rule 3745-54-56 (G). In such a situation, any recovered material should be managed as a hazardous waste unless the owner or operator can demonstrate that the material does not qualify as a hazardous waste as defined in O.A.C. Rule 3745-51-03 (C) and (D).

As concerns these requirements, the Applicant states that in the event of a release or fire involving hazardous waste whether or not occurring in the secondary containment area, the emergency coordinator will determine by observation (visual and olfactory) or analysis, if time permits, the identity of the material involved. Samples of the released material will be taken if for any reason a question arises as to composition or hazard. These samples will be observed for special physical characteristics which would indicate possible contamination. If contamination is suspected, the accumulated material will be placed in containers and managed as a hazardous waste. In all instances, residual material from cleanup operations will be properly stored, marked, labeled, and handled to prevent further incident. Permit application at 239, 242, and 244; April 13, 1984, Interrogatories: Interrogatory 24.

The Panel, after reviewing the record, found that in an emergency situation, the practice of contaminant identification through visual and olfactory means could be deceiving. Report at 18 and 28. In specific, the Panel was concerned that should a new and potentially dangerous contaminant be generated during emergency response activity, it would be difficult to retrieve or retain if released to the sewer system because of its misidentification as an inert substance. Report at 19. As a result of this concern the Panel recommended Term and Condition No. 4, which would require the Applicant to collect and store all fire and spill response by-products that are of a questionable nature as to hazardousness, pending a laboratory analysis. Materials found to be hazardous or known to be hazardous must be disposed of properly. Report at 39.

The Applicant objected to the Panel's findings and recommendation, stating:

... each of the materials handled is a well known substance within a limited range of chemicals having known properties to anyone with experience in the handling of chemicals. Each substance is odoriferous and the toxic substances are extremely insoluble in water and heavier than water so that layering would occur in a sample containing both the toxic substance and water. In addition, most of the substances have a coloration resulting from their prior use by the generator. The Applicant believes that this means of

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detecting the presence of significant quantities of waste material posing a threat of contamination is accepted within the United States by industry and regulatory agencies. The Applicant has stated that no material would be released to the sewer system if contamination is 'suspected.' ... (W) here drums have been spilled there is an obvious suspicion of contamination. Accordingly, the Contingency Plan provides that in such an event the material is to be collected and placed in drums pending proper handling and disposal. The Contingency Plan does not contemplate the release of material into the sewer system following an emergency response situation until all cleanup has been completed. Objections of the Applicant at 5 and 6.

The Ohio EPA offered a similar objection. Objections of Ohio EPA at 2.

The Board is in agreement with the Applicant that where a container has spilled there is an obvious suspicion of contamination. In addition, we would also include within the suspicion of contamination, material which results from the implementation of the facility's contingency plan. The Board must be assured that in such a situation any material collected will be managed in a manner which complies with the Director's hazardous waste standards.

These standards require that immediately after an emergency, the emergency coordinator must provide for the treating, storing, or disposing of recovered waste, contaminated soil or surface water, or any other material that results from a release, fire, or explosion at the facility. O.A.C. Rule 3745-54-56 (G). Unless it can be demonstrated in accordance with O.A.C. Rule 3745-51-03 (C) or (D) that the recovered material is not a hazardous waste, the owner or operator becomes a generator of hazardous waste and must manage the waste accordingly.

There is no question that the facility's contingency plan provides that material collected as a result of an emergency situation will be placed in containers pending proper handling and disposal, and that no material will be released to the sewer system if contamination is suspected. As a practical matter, however, facilities that store, treat, or dispose of hazardous waste must be considered hazardous waste management facilities for as long as they continue to contain hazardous waste and that any waste removed from such facilities - including spills, discharges or leaks - must be managed as hazardous waste. 45 Fed. Reg. 33,096 (May 19, 1980). Therefore, in order to ensure this result, the Board requires that during the implementation of the contingency plan, all released material and any emergency response material and by-products must be collected and presumed hazardous and managed as such until the facility owner or operator can satisfactorily demonstrate that the material does not qualify as a hazardous waste as defined in O.A.C. Rule 3745-51-03 (C) or (D).

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Accordingly, the Board modifies Recommended Term and Condition No. 4 as it appears following the discussion at the end of this subheading.

As part of its report, the Panel recommended Term and Condition No. 3 which required the Applicant to install emergency shutoff valves on all storm drains on its property. Applicant objected to this requirement on the ground that such valves are not needed in order to meet the statutory and regulatory requirements. The Applicant further objected to this requirement on the basis that "...in light of the record, the risk in this case is sufficiently remote that the installation of shutoff valves is not required." Objections of the Applicant, at 4 and 5. The Board disagrees with the Applicant and finds that R.C. Section 3734.05(C)(6)(d)(i) is a proper basis for imposing this Term and Condition in view of the Panel's analysis contained in the discussion under Recommended Finding of Fact No. 8.g. Report at 19. Although the Board agrees with the Panel's analysis, it cannot concur with the Panel's recommendation that all active onsite storm drains be equipped with emergency shutoff valves. The Board is of the opinion that only those storm drains which are located sufficiently close to the hazardous waste handling or storage areas such that they are likely to receive a release or spill of hazardous waste (or the resulting emergency response by-products) should be required to have shutoff valves. The record indicates that hazardous waste is handled and stored near the truck dock, forklift ramp, and the proposed hazardous waste storage area. Permit application at 171, 261, and 262. Trucks carrying hazardous waste into the facility are secured at the truck dock area before being unloaded. Forklifts are then used to transfer the drums from the truck onto wooden pallets. Drums are placed four to a pallet, and once properly inspected and verified, the full pallets are transported by forklift from the dock, down a ramp, to the designated storage area where they remain on the pallets. Once an economic truck load of hazardous waste is accumulated, the full pallets of drums are transferred by forklift from the storage area to the truck dock, prepared for shipment and placed onto the vehicle transporting them to the recycling center. The Board finds that three active storm drains are located sufficiently close to the hazardous waste handling and storage areas as to require the installation of emergency shutoff valves. The three drains are designated on the facility plot plan (permit application at page 171) as C.B. #1, C.B. #5 and 12 C.B. The Board also finds persuasive the suggestion of the Ohio EPA (Objections of Ohio EPA at 4 and 5) that the Applicant establish as part of its facility inspection program a plan for inspecting, cleaning, and maintaining the valves.

Accordingly, the Board modifies Recommended Terms and Conditions Nos. 3 and 4 as follows:

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Emergency Shutoff Valves (No. 3).

Prior to the storage of any hazardous waste at this facility pursuant to this permit, the Permittee shall submit to the Ohio Environmental Protection Agency for its approval both: (1) plans detailing the installation of the type of emergency valves capable of preventing released material from entering the three storm drains designated as C.B. #1, C.B. #5 and 12 C.B. on the facility plot plan (permit application at 171); and (2) a schedule for the inspection, cleaning, and maintenance of such valves.

Contingency Plan - Released Material and Emergency Response Material and By-Products (No. 4).

In the event of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents which necessitates the implementation of the facility's contingency plan, the Permittee shall shut off the storm drains on the facility property. All fire, explosion, or released material and emergency response material and by-products shall be collected and managed as hazardous waste until the Permittee can, pursuant to the Ohio hazardous waste rules, demonstrate to the approval of the Ohio Environmental Protection Agency that such material is not subject to the requirements of the Ohio hazardous waste rules.

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ACCUMULATED PRECIPITATION

A permit application for facilities that store hazardous waste in containers must include a description of how the facility's containment system will be designed and operated so as to ensure that accumulated precipitation can be analyzed and removed from the sump or collection area in as timely a manner as is necessary to prevent the system's overflow. (emphasis added) O.A.C. Rules 3745-50-44 (B)(1) and 3745-55-75 (B)(5). If the collected material is a hazardous waste under O.A.C. Chapter 3745-51, the material must be managed accordingly. O.A.C. Rule 3745-55-75 (B)(5) comment.

The McKesson application provides that should there be accumulated precipitation within the diked area of the containment system, the Applicant will examine the appearance of a sample of the precipitation prior to its removal from the containment area. The sample, drawn through a spigot, will be inspected (visual and olfactory) for evidence of possible contamination, i.e., odor, cloudiness or an insoluble layer. If no contamination is suspected, the accumulated precipitation will be released to the sewer. Permit application at 428. If evidence of contamination is found in the sample, all effluent in the bermed area will be containerized by means of a portable pump and held for proper disposition. Id. at 262 and 428. If the source and nature of the contaminant is not obvious, an analysis will be made of the effluent sample. Id. at 262.

The Applicant's proposed inspection (visual and olfactory) and analysis procedures for accumulated precipitation within the containment system, together with the absence of an onsite laboratory, concerned the Panel and this resulted in a recommended finding of fact that "(t)here is no evidence in the record that hazardous waste leakage which may be found in accumulated precipitation is detectable through visual and olfactory inspection." Report at 26. The Panel further expressed a concern that, based upon the evidence presented, "olfactory and visual inspection ... in no way constitutes an analysis ... because some materials may be of such a nature that they would be undetectable through an olfactory or visual inspection or, undifferentiable, in solution, from other coincidentals possibly found in accumulated precipitation, such as dust and dirt and oil." Id. at 28. To address these concerns the Panel recommended Term and Condition No. 8, requiring that "(u)nless the applicant is able to demonstrate to the satisfaction of the Ohio EPA that all hazardous wastes handled at this facility are detectable because of their immiscibility in water, or through visual and olfactory inspection, the applicant must retain and store in drums or containers all water which enters the containment area pending analysis for the waste which it is permitted to store." Id. at 40.

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The Applicant objected to the Panel's recommended finding of fact for the same reasons quoted in the discussion regarding released material and emergency response material and by-products. In specific, the attention of the Board is called to the following sentence: "The Applicant believes that this means (visual and olfactory inspection) of detecting the presence of significant quantities of waste material posing a threat of contamination is accepted ... by industry and regulatory agencies...." (emphasis added) Objections of the Applicant at 5.

The Ohio EPA objected to the Panel's recommended finding and term and condition regarding the adequacy of visual and olfactory inspection based upon its position that the Applicant's proposed procedures meet the performance standards. Objections of Ohio EPA at 3.

In general, it is a responsibility of the Board to ensure that, in the issuance of a permit, the permitted facility will be constructed and operated in a manner which is in compliance with the Director's hazardous waste standards. In specific, as concerns accumulated precipitation and its removal from a hazardous waste container storage facility, the permit application must show how all accumulated precipitation, whether in the form of rain, snow or ice, can be analyzed and removed from the containment system in as timely a manner as is necessary to prevent the system's overflow. O.A.C. Rules 3745-50-44 (B)(1)(a)(v) and 3745-55-75 (B)(5). In addition, if the accumulated precipitation is contaminated the Applicant must manage the waste in accordance with the Ohio hazardous waste rules.

As was discussed earlier in the OPINION, the Board is concerned with the reliability of visual and olfactory inspections to detect contamination of accumulated precipitation by certain types of hazardous waste.

The Board finds that certain wastes proposed to be managed at the facility are soluble in water and additionally that the wastes listed under the F003 category possess specific gravities of less than one and are lighter than water.² Therefore, layering of the

²The Board notes that some of the hazardous wastes proposed to be managed at the facility are spent solvents which are included within the F003 category and are classified as hazardous because of their ignitability. Other than to state that each waste to be managed at the facility is odoriferous and most waste will have coloration due to prior use, the Objections of the Applicant do not address the specific gravity or the solubility in water of those ignitable wastes which could possibly find their way into a sample of accumulated precipitation. Of the proposed F003 wastes, acetone, methanol and cyclohexanone are soluble in water. The remainder range from slightly soluble to insoluble in water. Further, methyl ethyl ketone, which is listed under F005 as ignitable and toxic, is also partially soluble in water.

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insoluble waste would occur in a sample (containing both the ignitable waste and water) with the ignitable waste on the top.

Visual and olfactory inspection may not be a reliable indicator of the presence of contamination in every instance. Considering the range of waste to be managed at the facility, and the possibility of varying quantities of soluble and insoluble wastes and precipitation that can accumulate in the containment area at any given time, the presence of these hazardous waste in the accumulated precipitation could go unnoticed. These wastes can elude visual and olfactory inspection either because of the difficulty in obtaining a representative sample due to a large volume of accumulated rain, snow or ice or because the amount of contaminant is relatively small. In case of such difficulty it is possible that, unbeknownst to the Applicant, contaminated accumulated precipitation would be removed from the facility via the sewer system. While it may be argued that under such a scenario the quantity of contamination may be relatively small, the Board will not authorize an applicant to discharge accumulated precipitation into a sewer system without a proper, prior determination that such precipitation is not hazardous.

For the reasons stated, the Board finds that the use of visual and olfactory inspections does not achieve compliance with the provisions of O.A.C. Rules 3745-50-44 (B)(1)(a)(v) and 3745-55-75 (B)(5). This situation, however, can be satisfactorily addressed through the insertion in the permit of a term and condition requiring the Applicant to: (1) manage all accumulated precipitation as a hazardous waste; or (2) submit to the Ohio Environmental Protection Agency for its approval an analysis plan which would be capable of determining whether accumulated precipitation was contaminated, thus requiring management as a hazardous waste; or (3) provide to the Ohio Environmental Protection Agency for its approval a plan which would ensure that precipitation does not enter the area in which the hazardous waste is managed thereby eliminating accumulated precipitation, e.g., a suitable covering of the area.

In conclusion, Recommended Term and Condition No. 8, for the reasons set forth above, is modified as follows:

The Permittee shall not manage hazardous waste at the facility, pursuant to this permit, unless:

- (1) the Permittee has submitted to the Ohio Environmental Protection Agency a certified statement that all accumulated precipitation at the facility will be managed as a hazardous waste; or

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(2) the Permittee has submitted to the Ohio Environmental Protection Agency, and the Ohio Environmental Protection Agency has approved, an analysis plan to be implemented at the facility, which plan does not rely exclusively on visual and olfactory inspections and is capable of determining whether accumulated precipitation is contaminated, thereby requiring its management as a hazardous waste; or

(3) the Permittee has submitted to the Ohio Environmental Protection Agency, and the Ohio Environmental Protection Agency has approved, a plan to be implemented at the facility which will ensure that precipitation does not enter the area in which hazardous waste is managed.

CONTAINER STORAGE LIMITATION

The Panel found that the facility was susceptible to receiving and managing hazardous waste that was misidentified by the generator, and that such an occurrence could present a risk to both the facility and the surrounding community as a result of improper management. Therefore, the Panel recommended as an adequate safeguard the requirement that the facility reship the waste in a timely manner. The following summarizes the Panel's reasoning.

1. The facility has no onsite laboratory, does not propose to open the drums for the purpose of inspecting the actual waste received, and, aside from "thumping" the drums (a practice the Panel believed was of dubious utility), relies exclusively on the drum label and a Spent Materials/Waste Products Survey as guidance for the proper means of handling and storing the waste. In short, the facility relies almost entirely on the representation of others for the identification of the waste it is managing.
2. In light of the above, there exists a risk that the Applicant will accept and manage barrels of misidentified waste.
3. The acceptance of misidentified wastes could create risks to the facility and the surrounding community as a result of improper handling and storage techniques.
4. The risks identified in item 3, above, could be minimized, in a manner consistent with the stated business objectives of the Applicant, by requiring the Applicant to promptly reship the waste to its ultimate destination where a full analysis would be performed and any misidentified waste would be discovered. Evendale Report at 72, as incorporated in Report at 38.

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In accord, the Panel recommended Term and Condition No. 2:

Prior to the receipt of any hazardous waste at this facility pursuant to this permit, the applicant will create a system whereby it can maintain a record of the date that each barrel of hazardous waste is received on-site. Pursuant to the implementation of this system, the facility will not be allowed to store each barrel for a period greater than 42 days. Report at 38.

The Panel justified the forty-two day container storage limitation, as a time limitation which accommodates the need for storage as stated by the Applicant in its permit application, while providing a reasonable buffer to account for unforeseen contingencies.

The Ohio EPA and the Applicant objected to the time limitation as having no basis in law, fact or logic and made reference to the fact that generators of hazardous waste are permitted by law to store hazardous waste for a period of ninety days without the requirement of obtaining a permit. O.A.C. Rule 3745-52-34.

The Board concurs with the Panel's recommendation to include a container storage limitation provision in the permit, but disagrees with several of the Panel's findings (including the specified time limitation of forty-two days) on the basis that they are not supported by the record. The Board finds that it is appropriate to impose a container storage limitation for the following reasons:

First, the Applicant represented in its permit application and the siting criteria document that the waste would be removed from the facility within an approximate thirty day period. The Applicant has made the following representations:

- * The Applicant is seeking a permit to function simply as a short-term (probably less than a month) storage facility for a limited variety of spent organic solvents. Permit application at 174.
- * Current estimates of future business call for one full truckload of spent solvents to be shipped to that location (the recycling center) each week. Present branch traffic involves 60-65 vehicles in and out of this McKesson Chemical location weekly. McKesson (Bedford Heights) Siting Criteria Evaluation, O.R.C. Section 3734.05 (C)(6)(d)(iii) at 2.
- * This application is concerned with only that point -- temporary storage of a narrow range of spent solvents for the short time required for amassing a large enough volume of material to warrant a shipment out of the branch. McKesson (Bedford Heights) Siting Criteria Evaluation, Introduction, at 4.

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Notwithstanding the representations of the Applicant, the Board is now informed that, although the application "describes the anticipated business cycle of the Applicant generally, such a description should not act as a limitation upon the Applicant." Objections of Applicant at 11. The Board rejects the Applicant's plea. Throughout this proceeding, the Applicant has consistently represented to the Board, the Panel, and the public, through its permit application and associated documents, that the storage of waste at the facility was a short-term business convenience. A fair question exists as to whether, at this late date in the proceedings, an applicant should be allowed to revise those material representations. The Applicant's original representations and documents have been disseminated to the public by the Board. Both the public and the parties in their consideration of the permit application may have relied upon these representations in determining the scope of their participation in these proceedings. In short, are we to create a situation where an applicant seeking the approval of the Board is allowed to make statements designed to reduce opposition to the facility and then revise or reinterpret those representations when the enforcement of those statements in a Board issued permit seems inconvenient and when the opportunity for presenting opposition has passed? The answer to this question must, of course, be in the negative.

Second, the storage of hazardous waste is by definition "for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere." (emphasis added) O.A.C. Rule 3745-50-10 (A)(74). Based upon this definition, the Board is of the opinion that hazardous waste storage was not intended to be open-ended or permanent, but rather to encompass a finite period of time. Thus, it is incumbent upon the Board that, in the issuance of a permit authorizing container storage of hazardous waste, the period of storage, per container, is defined within the permit.

In the objections filed by the Applicant and the Ohio EPA, both parties made reference to the fact that generators are allowed by rule to store hazardous waste for a period of up to ninety days without the requirement of obtaining a permit. Since the Applicant has not identified itself as a generator, the parties are apparently asserting that if generators are allowed to store waste for ninety days then the same might apply to the Applicant.

While the Board is not comfortable with a comparison of generators to container storage facilities, the analogy to the ninety day storage rights provided generators is relevant, but not for the reasons cited by the parties. This generator accumulation time reflects an effort by the regulatory agencies to balance the desire not to interfere with the generator's production processes with the need to provide adequate protection for human health and the environment. 45 Fed. Reg. 12,730 (February 26, 1980). The ninety day grace period was found not to be disruptive, as most generators are able to remove their waste offsite within that period.

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In imposing a time limitation for container storage of hazardous waste, the Board will look to a limitation that, when implemented, will be of such a duration as not to interfere with the operation of the facility and, at the same time, not adversely affect human health or the environment.

Based upon the analysis set forth above, and the precedent established by the McKesson Evendale case, the Board finds that an appropriate container storage limitation for the Bedford Heights facility to be ninety (90) days and modifies Recommended Term and Condition No. 2 accordingly.

ACCESS TO FIRE HYDRANT

The Panel found that in the event of a fire or explosion in the facility access to the fire hydrant in its present location could not be assured due to its proximity to possible sources of intense heat and because of its location behind a gate and on the far side of a rail spur on which could rest a rail car. Report at 15 and 16.

Two members of the Panel recommended insertion of the following term and condition (No. 10):

The applicant will not store hazardous wastes pursuant to this permit until such time as it obtains and transmits to the Ohio EPA and the Ohio Hazardous Waste Facility Board, either:

a) A letter from the fire chief of the City of Bedford Heights stating that he has considered the location of the present fire hydrant in respect to the location of the fence, railroad tracks, chemical storage warehouse, and hazardous waste storage facility and that he is of the opinion that the present location of the hydrant will not unduly hamper fire fighting activities at the facility; or

b) A letter from the fire chief of the City of Bedford Heights stating that the applicant has caused to be installed a suitably located fire hydrant that will allow fire fighting activities to be carried on effectively at the applicant's facility. Report at 41.

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The other member of the Panel recommended that the function stated in the above term and condition be performed by the State Fire Marshal. "... (I) f the State Fire Marshal did not, for whatever reason, wish to exercise his jurisdictional power, the task assigned to the permittee involving the State Fire Marshal would be reassigned to the Bedford Heights Fire Department." Report at 42.

The Ohio EPA objected to the Panel's recommendation on the basis that "... the Bedford Heights Fire Department actively participated in the Public Hearing ... and that said Fire Department ... provided only favorable comments regarding the Applicant based upon actual inspections...." For those reasons, the Ohio EPA concluded that the hydrant access must be sufficient. Objections of Ohio EPA at 4. The Board disagrees with Ohio EPA's objection. The Board upon reviewing the Public Hearing transcript finds that Mr. Eugene Gehri, Bedford Heights Fire Department Chief was only present at the afternoon session and his participation consisted solely of a response to a particular question raised in the audience concerning spill response capabilities. Mr. Gehri stated that the Bedford Heights Fire Department has a copy of McKesson's contingency plan, a list of all chemicals kept at the McKesson facility and it was his opinion that "... they (McKesson) have been there for twenty years and we ... never had a problem with their chemicals." Public Hearing Transcript at 147. At no time during the Public Hearing did the Fire Chief address the issue of the adequacy of fire response in general or fire hydrant access in particular. Therefore, there is no basis for the objection asserted by the Ohio EPA.

The Applicant objected to the Panel's recommendation on the basis that it "... coordinates its emergency response efforts with the local fire department and that the facility has been inspected by the local fire department..." and "(n)o objection has been made ... concerning the location of the fire hydrant." Objection of Applicant at 3. The Board disagrees. The Applicant's statement that it coordinates its emergency response efforts with the local Fire Department has no bearing upon the accessibility of the fire hydrant. Moreover, the fact that the Fire Department was silent as to the location and access to a fire hydrant after an inspection, does not allow the Board to draw the conclusion that access to the fire hydrant is sufficient with respect to the Applicant's proposed hazardous waste activities. Given the facts available, it is impossible to draw any inference regarding such silence.

The Applicant introduced in its objections the concept of the existence of an access road running the length of the facility that can be used to access the fire hydrant without entering the yard or warehouse area. Objection of Applicant at 3. The plot plan, and the contingency plan relating to emergency response/evacuation and

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emergency equipment location does not substantiate the existence of such road. Permit application at 171, 463, and 468. Therefore, the Board imposes a term and condition requiring that the three above documents be revised consistent with the Applicant's assertions in the cited objections.

The Board is in agreement with the Panel that the primary issue is whether the facility as proposed can assure that an adequate supply of water is available to combat fires at the facility. However, the Board does not concur in the recommendation of the Panel. Neither the local fire department nor the State Fire Marshal are the appropriate approving authority for these matters.

With respect to facility preparedness and prevention capabilities, Ohio law requires that all hazardous waste management facilities be designed, constructed, maintained and operated to minimize the possibility of fires or explosions that can threaten human health or the environment. O.A.C. Rule 3745-54-31. To be adequately prepared to minimize such possibility, Ohio law further requires that facilities be equipped with water adequate for firefighting equipment. O.A.C. Rule 3745-54-32. Critical to the adequacy of water supply is its accessibility. While these laws as applied to the facts in the case support the Panel's concern regarding fire hydrant accessibility, the Panel's Recommended Finding of Fact No. 8.f is incomplete in this respect.

Therefore, the Board supplements the Panel's Recommended Finding of Fact No. 8.f by finding that:

The nearest fire hydrant is located on the Applicant's property on the far side of the rail spur, southeast of the hazardous waste storage area* (Permit application at 171; April 13, 1984, Interrogatories: Interrogatory 3; Objections of Applicant at 3), between two chain link fences. April 13, 1984, Interrogatories: Interrogatory 3. One fence lies along the property line and the other parallel to it. A small gate is located in each of the two fences on either side of the rail spur to allow access to the fire hydrants. Id.

On the other hand, the plot plan does not confirm the existence of a second fence. The plot plan indicates only one fence with two access gates. This fence is parallel with the property boundary and the rail spur. Permit application at 171. The plot plan, and the contingency plan relating to emergency

*Page 463 of the Permit application dealing with the contingency plan incorrectly shows the location of the fire hydrant.

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response/evacuation and emergency equipment locations does not substantiate the existence of an access road. Permit application at 171, 463, and 468.

There is thus uncertainty concerning the actual number of fences, the location of the gates providing access to the fire hydrant, and the existence of an access road.

In addition, the availability of adequate amounts of water may be severely restricted or impaired whenever a rail car is parked on the rail spur. The Board notes that the Applicant's statements (Objections of Applicant at 3) regarding access of the fire hydrant from any access road does not address this issue.

For the foregoing reasons, the Board modifies Recommended Term and Condition No. 10 as follows:

Prior to the receipt of any hazardous waste at this facility pursuant to this permit the Permittee shall:

- (a) submit to the Ohio EPA for its approval a plan which shall establish and guarantee that the small gate(s) in the fence(s) shall be dedicated and designated as fire gate(s) and except as provided below shall remain unobstructed at all times. This plan shall also establish corridors from each fire gate to the storage area that will remain unobstructed at all times (as indicated on page 239 and 484 of the permit application). This plan shall further provide that no rail cars block the dedicated fire gates or provide for the moving of any rail car in the event of an emergency or the relocation of the fire hydrant to a point inside the inner fence.
- (b) revise the contingency plan to correctly indicate the location of the fire hydrant(s), all fencing, gate(s) and access road(s); and
- (c) distribute the revised contingency plan in accordance with O.A.C. Rule 3745-54-53(B).

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NUMERICAL LIST

The Board, having considered its statutory duty under R.C. Chapters 119. and 3734., as well as the record of proceedings in this matter, and being fully advised in the premises, approves, modifies or disapproves the findings of fact recommended by the Panel, or adopts such new findings of fact, as previously discussed or as set forth below:

FACTS RELATING TO PROCEDURE - R.C. SECTION 3734.05 (C)(6)

1. Filing of Application with Ohio Environmental Protection Agency. McKesson Chemical Company ("Applicant") filed an application with the Ohio Environmental Protection Agency ("Ohio EPA") for a hazardous waste facility installation and operation permit ("hazardous waste permit" or "permit") to utilize its facility at 26601 Richmond Road, Bedford Heights, Ohio ("facility") for the temporary storage of spent solvents which are collected in Ohio. The Applicant's filing was more than one hundred eighty days before the beginning of operation of the facility. The Applicant has paid the required fee. Permit application at 1. (Modification of Recommended Finding of Fact No. 1)
2. Transmittal of Application to the Board. The Ohio EPA, by letter received December 22, 1983, transmitted the Applicant's permit application to the Board. The letter stated that the Ohio EPA had reviewed the application, "found it to be complete," and "preliminarily determined that the application appears to comply with Agency rules and to meet the performance standards set forth in division (D) of section 3734.12 of the Ohio Revised Code." Permit application at 3. (Modification of Recommended Finding of Fact No. 2)
3. Public Hearing. The Board, in accordance with R.C. Section 3734.05 (C)(3)(a), established February 23, 1984, as the date for the public hearing on the application, such date being not fewer than sixty nor more than ninety days after receipt by the Board of the completed application. The hearing date and a summary of the application were public noticed in the December 30, 1983, issue of the Cleveland Plain Dealer, a newspaper of general circulation in the county (Cuyahoga County) in which the proposed facility is to be located. The public notice contained, inter alia, the date, time, and location of the public hearing, a map indicating the location of the proposed facility, a description of the proposed facility, the location where copies of the application were available for public inspection, and the date (March 21, 1984) for the commencement of the adjudication hearing on disputed issues, which date was

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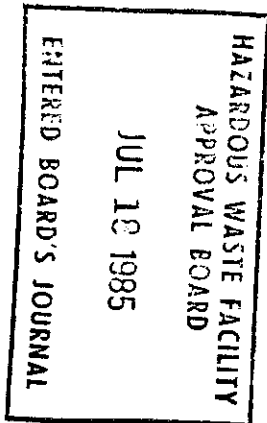
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not less than ninety nor more than one hundred twenty days after receipt by the Board of the completed application. Report at 2. (Modification of Recommended Finding of Fact No. 3)

4. Public Hearing Comments. At the public hearing, the proceedings of which were transcribed by a court reporter, all persons were permitted to present oral testimony or submit written comments regarding the approval or disapproval of the permit application. Id. The written comment period terminated at the close of business, March 23, 1984. Id. At the public hearing a number of concerns were raised about the facility. These included:
 - a. Mrs. Barbara Cashman, an employee of Joseph Industries, a business neighboring the McKesson Chemical Company, observed McKesson employees "coming out of there with ... something in a bucket and dumping it ..." on her employer's side of the fence. Public Hearing Transcript at 15, 28, and 29. See Finding of Fact No. 41B.
 - b. Mr. Edward Marek, a citizen of Solon, Ohio, and Ms. Carol Laskowski, a citizen of Bedford Heights, stated that they experience odors which they perceived to originate from industries in Bedford Heights. Mr. Marek believes the odor is transmitted by a creek which flows through his property. Public Hearing Transcript at 32. Ms. Laskowski noticed odors late in the evening near her house and at public places such as the neighborhood baseball fields. Public Hearing Transcript at 50, 56 and 57. See Finding of Fact No. 41C.
 - c. Mr. Alex Seminock, a citizen of Maple Heights, Ohio, Mrs. Agnes Marek, a citizen of Solon, Ohio, and Mr. Edward Marek, also a citizen of Solon, expressed concern that the streams in the Bedford Heights area are polluted and that the McKesson facility contributes to this pollution. A written comment from Mr. Seminock stated that McKesson Chemical Company was "dumping chemicals into the storm sewers which drain into streams." Letter received by the Board, March 1, 1984. A written comment by Mrs. Agnes Marek stated that some chemicals from the McKesson facility "are spilled and washed into [the] storm sewer, then into Big Bear Creek, Tinker's Creek and the Cuyahoga River." Letter received by the Board, March 5, 1984. Mr. Marek stated that he has observed tar, oil, and paint in the creek. These discharges were attributed to spills which occurred at unidentified industrial sources and subsequently migrated to the creek via the storm sewers. Public Hearing Transcript at 32 and 34. See Finding of Fact No. 45B.



d. Members of the public have raised questions relating to the wisdom of licensing a hazardous waste facility either (1) in proximity to: homes (March 1, 1984, letter of Robert Werab and family, March 2, 1984, letter of R.J. Evans & Associates, Inc., March 5, 1984, letter of Shirley A. Henderson); businesses (Public Hearing Transcript at 13, 15, 105-6, March 8, 1984, letter of R.J. Evans & Associates, Inc., March 5, 1984, letter of Shirley A. Henderson); a densely populated area (Public Hearing Transcript at 116, March 5, 1984, letter of Lynn Zamolauski, March 5, 1984, letter of Mona Kolesar); a water well (Public Hearing Transcript at 113); highly travelled surface transportation routes (Public Hearing Transcript at 17, March 5, 1984, letter of Shirley A. Henderson), or (2) in an area not relatively isolated (March 5, 1984, letter of Sue K. Schancks). Two citizens questioned the wisdom of locating a hazardous waste facility at a site that will cause transportation of shipments of hazardous waste to pass food stores, schools, or outdoor recreational facilities (March 1, 1984, letter of Mr. and Mrs. Eugene Laskowski). See Finding of Fact No. 35.

e. Mr. James Cody (Public Hearing Transcript at 128) and Mr. Pat Santangelo (Public Hearing Transcript at 143 and 144), both of whom are members of the Bedford Heights City Council, questioned whether adequate provisions had been made for facility security at night. See Finding of Fact No. 16.

f. Mr. Nebel of the Home Owners Association No. 2 questioned the adequacy of the Applicant's plan to analyze liquids that have accumulated in the containment storage area. Public Hearing Transcript at 67 and See Finding of Fact No. 17.

g. Mr. Nebel questioned whether personnel identified in the contingency plan are in fact available in the event of an emergency. Public Hearing Transcript at 69 and See Finding of Fact No. 19. (Modification of Recommended Finding of Fact No. 5).

5. Appointment of Panel. Pursuant to O.A.C. Rule 3734-1-07 (D), an adjudication panel ("Panel") was selected to assist in hearing and deciding the case, and preparing a written report and recommendation. Report at 2. (New Finding of Fact)
6. Petition to Intervene. No petitions to intervene in the case were received by the Board. Id. (New Finding of Fact)
7. Prehearing Conference. A prehearing conference was held on March 19, 1984, which conference was attended both by counsel for the Applicant and for the Ohio EPA. The

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remaining statutory parties, the Mayor of the City of Bedford Heights and the Cuyahoga County Board of Commissioners, neither attended the conference nor appeared through their respective attorneys. Moreover, at no time subsequent to the conference did the two last mentioned parties take an active part in these proceedings. In the course of the conference, counsel for the represented parties stated that they were not disputing any issues and agreed to file joint proposed findings of fact and conclusions of law for the Panel's consideration. Report at 2 and 3. (Modification of Recommended Findings of Fact Nos. 4 and 6)

8. Panel's Report and Recommendation. The Panel filed with the Board on August 20, 1984, a written Report and Recommendation ("Report") setting forth their findings of fact and conclusions of law and a recommendation that a permit should be issued with specific accompanying recommended terms and conditions. On August 23, 1984 and August 27, 1984, the Panel filed errata with respect to the Report and an additional finding of fact, respectively. (New Finding of Fact)
9. OMITTED
10. Objections of the Parties. Objections from the Ohio EPA and the Applicant were received on September 4, 1984. (New Finding of Fact)

DISCUSSION: The Board deleted Recommended Finding of Fact No. 5.e because it is not substantiated in the record, and added Finding of Fact 4.g because of its significance in evaluating the application. The new or modified findings of fact are taken from the record of the proceedings, and are relevant and material to the Board's determination of the permit application. Findings of Fact Nos. 1 through 10 are necessary to demonstrate compliance with the requirements set forth in R.C. Chapter 119 and R.C. Section 3734.05 (C).

FACTS RELATING TO R.C. SECTION 3734.05 (C)(6)(a)

11. Nature and Volume. The Applicant proposes to utilize its facility as an offsite hazardous waste container storage facility for various chemical solvents destined for recycling. The total process design capacity is:

<u>PROCESS</u>	<u>AMOUNT</u>	<u>EST. ANNUAL QUANTITY OF WASTE</u>
Storage (Containers)	6050 gals. (in 110 containers of 55 gals. capacity each)	885,000 lbs.

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The hazardous wastes requested to be managed at the facility are:

<u>Chemical</u>	<u>Hazard</u>	<u>Basis For Hazard Designation</u>
Tetrachloroethylene	Toxic	Listed waste F001, F002
Trichloroethylene	Toxic	Listed waste F001, F002
Methylene Chloride	Toxic	Listed waste F001, F002
1,1,1-Trichloroethane	Toxic	Listed waste F001, F002
Carbon Tetrachloride	Toxic	Listed waste F001
Chlorinated Fluorocarbons	Toxic	Listed waste F001
Chlorobenzene	Toxic	Listed waste F002
Ortho-Dichlorobenzene	Toxic	Listed waste F002
Trichlorofluoromethane	Toxic	Listed waste F002
1,1,2-Trichloro-1,2,2-Trifluoroethane	Toxic	Listed waste F002
Xylene	Ignitable	Listed waste F003
Acetone	Ignitable	Listed waste F003
Ethyl Acetate	Ignitable	Listed waste F003
Ethyl Ether	Ignitable	Listed waste F003
Methyl Isobutyl Ketone	Ignitable	Listed waste F003
n-Butyl Alcohol	Ignitable	Listed waste F003
Cyclohexanone	Ignitable	Listed Waste F003
Methanol	Ignitable	Listed waste F003
Toluene	Toxic, Ignitable	Listed waste F005
Methyl Ethyl Ketone	Toxic, Ignitable	Listed waste F005
Isobutanol	Toxic, Ignitable	Listed waste F005

Report at Appendix A; Permit application at 162. (New Finding of Fact)

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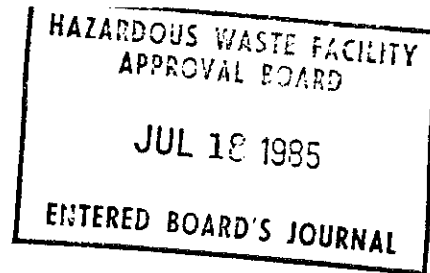
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- 11A. Contingency Plan Waste List. The contingency plan waste list at page 489 of the permit application is inaccurate. This inaccuracy is corrected through a permit term and condition. See permit Term and Condition No. B.39.
12. Container Storage. (a) No waste will be treated or disposed of at the facility. (Adopted Recommended Finding of Fact No. 7.a)
- (b) No more than one hundred ten (110), fifty-five (55) gallon containers of hazardous waste will be stored at the facility at any one time. (Adopted Recommended Finding of Fact No. 7.c)

DISCUSSION: Recommended Finding of Fact No. 7.b is contained in Finding of Fact No. 11.

FACTS RELATING TO R.C. SECTION 3734.05 (C)(6)(b)

13. Facility Description. The facility, located at 26601 Richmond Road, Bedford Heights, Ohio, consists of a masonry steel frame building of approximately 20,500 square feet of which approximately 2,700 square feet is office and the remainder is warehouse.
- The overall yard area is approximately 110,000 square feet of which approximately 86,000 square feet is surrounded by a six foot high chain link fence topped by three strands of barbed wire extending up an additional one foot. The area designated and designed for hazardous waste storage consists of approximately 300 square feet located in the outside yard area adjacent to the masonry steel frame building. This area is entirely within the fenced in portion of the yard. An engineering drawing of the facility, certified by an Ohio licensed engineer, is contained in the application. (Adopted Recommended Finding of Fact No. 8.a)
14. Chemical and Physical Analysis. Both the Applicant and McKesson EnviroSystems (an affiliate of the Applicant which will recycle the waste) will require all generators to provide data regarding the chemical makeup of the generator's waste stream for review and evaluation by the McKesson EnviroSystems Laboratory before approval to accept the waste is given. Data and analytical information adequate to properly manage a given waste stream is developed and disseminated, and kept on file at the facility. Generators will be provided with proof of appropriate permits for the managing of their particular waste streams and offered the opportunity to tour both the storage facility and the recycling plant. The

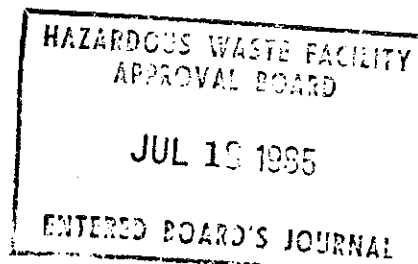


Applicant will require the generator to certify that the wastes proffered are only the listed wastes (F001, F002, F003, and F005) identified in Finding of Fact No. 11.

Before transferring ownership or operation of the facility, the Applicant will notify the new owner and operator in writing of the requirements of the hazardous waste facility standards chapters of the Ohio Administrative Code. April 13, 1984, Interrogatories: Interrogatory 2a. (Modification of Recommended Finding of Fact No. 8.b)

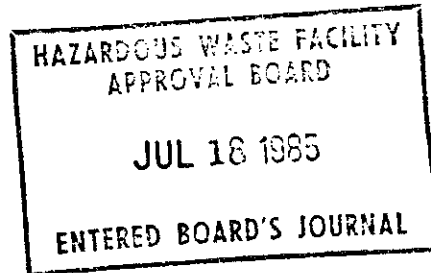
DISCUSSION: The modified material in the finding of fact was taken from the official record of the proceedings and is relevant and material to the Board's determination of the permit application.

15. Waste Analysis Plan and Verification Test. The waste analysis and verification test to be utilized by the Applicant (set forth in detail in the application) are well established and rigidly enforced company policies. Prior to accepting hazardous waste the Applicant will require a prospective generator to prepare a Spent Material/Waste Product Survey (on a form provided by the Applicant together with preparation instructions) and the generator is strongly urged to provide a laboratory analysis of the waste to be managed performed by the generator or an independent laboratory. A copy of the survey and any laboratory analysis will be kept on file at the facility. The original survey and any laboratory analysis will be transmitted to McKesson Envirosystems for evaluation. If no laboratory analysis is provided or the analysis provided is inadequate, a sample will be taken at the generator's location and sent to the McKesson Envirosystems Laboratory for analysis. In this event, a copy of the laboratory report will be transmitted to the Applicant's facility. The parameters to be measured in the evaluation include assay, specific gravity, water, flash point, and pH, as appropriate. These parameters will provide sufficient identification or verification that the waste material matches the analytical data provided by the generator plus confirmation of any warning information necessary to transport and store the waste. After McKesson Envirosystems determines that sufficient knowledge and reports on a particular waste stream are available, approval will be given to the Applicant to accept the waste stream and an approval checklist and laboratory report is provided to the facility. The Applicant then notifies the generator that the waste will be picked up, provided the generator completes an appropriate hazardous waste manifest, a copy of which is provided to the



Applicant and checked. After approval of the manifest by the Applicant, a copy will be given to the truck driver and kept in his possession until delivery of the waste to the Applicant's facility. The driver will compare his copy of the manifest to the original manifest of the generator for consistency and then inspect the waste to be picked up from the listing on the original manifest. The driver will then evaluate each container for condition, locate the precautionary warning label, insure that no other label or stencil is on the container other than the hazardous waste label, and determine that each container is essentially full. The driver will also examine the hazardous waste label to verify that it is complete, including: Generator name and address, contents, manifest number, proper shipping name, U.S. EPA identification number, and accumulation starting date. The Applicant's drivers will pick up only the quantity and class of hazardous waste appearing on the original manifest. Upon arrival at the Applicant's facility for temporary storage, a calculated specific gravity test of the contents of at least ten percent (10%) of the shipment randomly selected will be determined to roughly verify the probable chemical species. In addition, the containers will be counted, inspected as to condition, and proper labeling again verified, all of which is to be checked against the manifest. Failure of the shipment to pass any of these tests constitutes grounds for rejection of the shipment as discussed previously. If all tests are passed, the person having conducted the verification will sign the manifest. At the time that a shipment is received at the recycling facility, verification will be made that the shipment corresponds with the manifest, and actual samples will be drawn from the shipment and tested to assure that the waste is in fact the waste described on the Spent Material/Waste Product Survey. In the event of a discrepancy, the Applicant will contact the generator and conduct a re-evaluation of that generator's waste stream before acceptance of any other waste. Transportation of all waste to and from the Applicant's facility provided by the Applicant will be in accordance with this procedure. No containers will be opened during transportation or storage prior to receipt at the recycling facility unless required for the transfer of waste due to container condition. The operations of the Applicant will be limited to container storage and other types of storage, or any treatment or disposal of hazardous waste, is not authorized.

Records and results of waste analyses performed, summary reports and details of all incidents that require implementing the contingency plan, and copies of all closure cost estimates will be maintained at the facility



as part of its operating record until closure occurs. April 13, 1984, Interrogatories: Interrogatory 8.

Copies of the annual report shall be mailed to the Director of Environmental Protection, as required by O.A.C. Rule 3745-54-75. April 13, 1984, Interrogatories: Interrogatory 10. (Modification of Recommended Finding of Fact No. 8.c)

DISCUSSION: The basis for the finding of fact was discussed earlier in the OPINION. (See section on Waste Analysis Plan and Verification Test.) The additional material was taken from the official record of the proceedings and is relevant and material to the Board's determination of the permit application.

16. Security. Security to the facility is provided by a six foot high chain link fence topped with an additional foot of three strands of barbed wire. All exterior doors and gates providing access to the yard are maintained in a locked and secured condition during nonworking hours. Lighting controlled by electric timers illuminates the building, fence and yard. No wastes or materials, empty pallets or containers are stacked against the fence which would provide a means of ingress or egress over the fence or conceal ingress or egress through the fence. All critical locks are changed when a key holder leaves the facility, when a key is lost, or every two years whichever occurs first. Two vehicular gates provide access to the facility, one for motor vehicles and one for rail cars. All visitors must pass through the main office where they are required to identify themselves and their purpose for visiting. The rail gate to the facility is kept closed and locked, except when trains are entering or departing. The truck gate is kept closed and locked during the time when the facility is closed. During working hours, the truck gate is left open and unlocked. The truck gate is observable from windows in the general office. No specific employee is responsible for observing the front gate, although the responsibilities of general clerical positions do include the registration of visitors. All visitors who pass through the main office will be required by the Applicant's clerical employees to identify themselves and the purpose of their visit. The storage of waste in sealed containers does not pose a threat of injury to unknowing or unauthorized persons who enter the facility during working hours and is not reasonably susceptible to disturbance during working hours which would cause a violation of the requirements of the hazardous waste facility standards chapters. The Applicant's company policy requires that all visitors be accompanied by an

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employee of the Applicant at all times. Any visit and/or inspections relating to the function of the facility as a hazardous waste management facility will be logged in the facility's operating log.

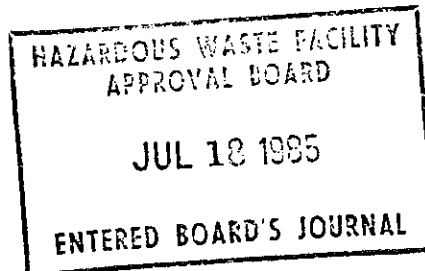
Warning signs will be conspicuously posted stating "Danger-Unauthorized Personnel Keep Out." Report at 12.

As noted by Mr. Moll, branch manager, the facility has been present in the community since 1962 and has never experienced any break-ins or vandalism. It is also well-lit and patrolled regularly by the Bedford Heights Police Department. (Public Hearing Transcript, Testimony of Clifford Moll, pp. 124, 144.) Report at 13. The facility history demonstrates that such additional security is unwarranted at this facility.

(Modification of Recommended Finding of Fact No. 8.d)

DISCUSSION: The last two sentences in the above Finding of Fact were added by the Board. The Panel made these statements in its discussion of night security. Since these statements bear directly on the issue of whether the Applicant complies with the hazardous waste standards, the Board believes that these statements should be characterized as Findings of Fact. A statement relating to "No Smoking" signs in Recommended Finding of Fact No. 8.d is deleted as irrelevant and is duplicative of a similar statement in Finding of Fact No. 21.

17. Inspections. The Applicant will inspect the container storage area for leaks, spills, and cracks or deterioration in the base and berm on a daily basis. In addition, contamination of any accumulated precipitation will be inspected on a daily basis and after any precipitation event. The Applicant has not submitted evidence that all hazardous waste leakage which may be found in accumulated precipitation is detectable through visual and olfactory inspection. The placement and stacking of containers (to provide sufficient space to allow unobstructed movement of personnel and emergency equipment), the sealing of containers, labeling of containers, warning signs, and any debris or refuse will be inspected for on a weekly basis. The security devices such as the fence and gates will be inspected on a weekly basis. The surface areas and dock bumpers in the loading and unloading area will be inspected on a daily basis. All safety and emergency equipment such as first aid equipment and supplies, protective clothing, respirators, absorbent, overpack containers, pumps, fire alarm systems, telephone systems, and emergency lighting are to be inspected on a periodic basis and immediately after each use. The Applicant will create and maintain written records of each inspection identifying the subject matter inspected, the date, the time, the identity of the



inspector, observations, and specifying any remedial action required. The Applicant has a specific container inspection check list for containers of hazardous waste. This facility will not employ tanks, surface impoundments, waste piles, or incinerators in the management of hazardous waste. Records of all inspections will be kept for a minimum of three years. Additional inspections will be conducted of the facility by the Applicant, with personnel not stationed at the facility, on a quarterly basis, and various inspections may be conducted by regulatory and emergency agencies. (Modification of Recommended Finding of Fact No. 8.e)

DISCUSSION: The following sentence was modified as underlined: "The Applicant has not submitted evidence that all hazardous waste leakage which may be found in accumulated precipitation is detectable through visual and olfactory inspection." (See section on Visual and Olfactory Inspection, Accumulated Precipitation.)

18. Preparedness and Prevention. The telephone system at the facility is designed to provide internal communication as well as external communication to emergency and regulatory agencies. A designated alarm system can be utilized as an alert system for emergency situations. Instruction with respect to emergency situations and drills will be conducted on a routine basis. The building is protected by a sprinkler system with an automatic alarm system hookup. Portable fire extinguishers, fire control equipment, spill control equipment and decontamination equipment is to be provided and inspected on a routine basis. Ignitable wastes will be separated and located at least fifty (50) feet from any property line in an area free from sources of ignition and designated "No Smoking." No incompatible or reactive waste will be stored at the facility. Copies of the Applicant's contingency plan have been given to the local police and fire department, Ohio EPA, and local hospitals or emergency treatment centers to inform them of the type of wastes to be managed at the facility and the potential need for the services of these organizations. The provision of a two foot wide pedestrian aisle space is shown on a diagram on page 406 of the application, which permits inspection of the containers, decontamination, and spill cleanup. Any decontamination, spill control, or fire protection equipment has ready access to the containers from outside the bermed area because any pallet can be managed over the curb. Permit application at 405.

The nearest fire hydrant is located on the Applicant's property on the far side of the rail spur, southeast of the hazardous waste storage area* (Permit application at 171; April 13, 1984, Interrogatories: Interrogatory 3; Objections of Applicant at 3), between two chain link fences. April 13, 1984, Interrogatories: Interrogatory 3. One fence lies along the property line and the other parallel to it. A small gate is located in each of the two fences on either side of the rail spur to allow access to the fire hydrant. Id.

On the other hand, the plot plan does not confirm the existence of a second fence. The plot plan indicates only one fence with two access gates. This fence is parallel with the property boundary and the rail spur. Permit application at 171. The plot plan, and the contingency plan relating to emergency response/evacuation and emergency equipment locations does not substantiate the existence of an access road. Permit application at 171, 463, and 468.

There is thus uncertainty concerning the actual number of fences, the location of the gates providing access to the fire hydrant, and the existence of an access road.

In addition, the availability of adequate amounts of water may be severely restricted or impaired whenever a rail car is parked on the rail spur. The Board notes that the Applicant's statements (Objections of Applicant at 3) regarding access of the fire hydrant from any access road does not address this issue. (Modification of Recommended Finding of Fact No. 8.f)

DISCUSSION: See previous discussion on ACCESS TO FIRE HYDRANT.

19. Contingency Plan. The location for which the permit is sought is an established branch of the Applicant which has been used for the storage and distribution of virgin solvents and, pursuant to applicable state and federal laws, the storage of unlimited quantities of substances classified as hazardous waste for a period not to exceed ten (10) days. The Applicant's existing contingency plan has been amended to incorporate hazardous waste

*Page 463 of the Permit application dealing with the contingency plan incorrectly shows the location of the fire hydrant.

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management provisions. The contingency plan identifies the owner and operator of the facility and the facility personnel involved with implementing emergency procedures including home phone numbers for the branch manager, emergency coordinator, and his alternates. The emergency phone number section of the contingency plan provides information for contacting emergency and regulatory agencies in the event of an incident. Such phone number listings will also be posted prominently within the facility and kept readily available by the emergency coordinator or his alternate. The emergency coordinator or his alternate shall be either at the facility premises or on call with the responsibility for coordinating all internal emergency response measures. The emergency coordinator and the alternate shall be familiar with all aspects of the facility's contingency plan, all operations and activities at the facility, location and characteristics of hazardous waste managed, the location of all records within the facility, facility layout, and will have the authority to commit the resources of the Applicant needed to implement the contingency plan. The emergency coordinator and his alternates have been or will be trained to assess, and react to, emergency situations including the immediate notification of all emergency and regulatory agencies. All personnel at the facility will participate in emergency drills conducted every six months and be provided instruction by the local fire department on the use and application of onsite fire fighting equipment. The contingency plan and drills include an evacuation plan of the facility and assistance in the implementation of evacuation of the immediate surrounding area if necessary. The contingency plan contains provisions for the managing of spills or releases including cleanup procedures, accumulation of liquids and collected cleanup materials for labeling and placement in approved cleanup containers for offsite disposal (unless it is deemed incompatible with materials already contained in such container), sampling of materials, decontamination, additional means of leakage containment, and use of protective and safety equipment during all transfer and cleanup activities. During any emergency situation, the emergency coordinator shall take all reasonable measures necessary to insure that fires, explosions, and releases do not occur, recur, or spread to other unaffected areas of the facility. Immediately after an emergency, the emergency coordinator or his alternate shall provide for treating, storing, or disposing of recovered waste, contaminated surface water, or any other material that results from the incident in an appropriate manner as governed by federal, state, and local laws. The contingency plan provides that no waste which might be of incompatible nature with released

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material is stored within the affected area of the facility until cleanup procedures are completed and that all emergency equipment utilized in the emergency situation shall be cleaned, recharged, inspected, replaced, or made fit for use before normal operations are resumed. The contingency plan contains a list of emergency and safety equipment available for use at the facility. The contingency plan also identifies the information and reporting requirements to the United States EPA and Ohio EPA following an emergency event. (Modification of Recommended Finding of Fact No. 8.g)

DISCUSSION: The following sentences were deleted as the subject matter is more appropriately discussed under Finding of Fact No. 25. "The familiarity of branch managers with emergency procedures is not documented in the record." and "The Applicant has not submitted an outline of the content of the continuing and introductory training programs for branch managers."

As the adjudication panel stated on page 18 of the Report, the "availability of personnel identified in the contingency plan should be assured." The Panel has correctly found that this is not the case with respect to the Yard Assembly Point Leader. The Board finds that the necessary assuredness can be provided by either designating another employee as Yard Assembly Point Leader who is continuously available or by appointing an alternate to the current Yard Assembly Point Leader. The Board therefore modifies the Panel's Recommended Term and Condition No. 12 as follows:

Designation of Yard Assembly Point Leader.

The Permittee shall not store hazardous waste pursuant to this permit until it has either appointed a member of the facility staff who is continuously available during working hours to act as the Yard Assembly Point Leader or has appointed an alternate to the current Yard Assembly Point Leader, which alternate is so available.

20. Procedures, Structures, and Equipment. The activities relating to hazardous waste at the facility will be limited to the transportation and temporary storage of spent solvents in sealed containers. The loading and unloading of these containers will be limited to a designated loading area. Trucks or trailers delivering hazardous waste to the facility will be parked at the dock and secured by means of wheel chocks after which fork lifts will be utilized to transfer the containers onto wooden pallets and, after various inspection and verification tests, move the containers and pallets to

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the storage area where they will be spaced to avoid damage to one another and to provide access for emergency personnel and equipment. While in storage, the containers and containment area will be inspected in accordance with the inspection procedures set forth in detail in the application. The application also identifies in the preparedness, prevention, and contingency plan discussions, the manner of reacting to a spill or release to minimize the danger to employees, the environment, and the neighborhood. In the event the accumulated liquid is a hazardous waste, portable pumps and transfer containers are available onsite for proper cleanup and containment prior to disposal at an appropriately permitted facility. In addition to the use of only United States Department of Transportation (DOT) approved containers which will be frequently inspected to minimize the risk of spills or leaks, the loading, unloading, and storage operations will be conducted over paved or concrete surfaces with no exposed earth or soil susceptible to any significant threat of ground water contamination. The absence of process operations renders the impact of equipment or power failure negligible. In such event, the activity would simply be ceased until corrective actions were taken. The Applicant will retain material safety data sheets onsite for the waste managed and stored, identifying toxicity, fire and explosive hazards, protective equipment recommendations, and first aid as well as protective and emergency equipment for the use of the Applicant's employees and emergency personnel. (Adoption of Recommended Finding of Fact No. 8.h)

DISCUSSION: The Board notes that Recommended Term and Condition No. 5 is in error as it requires the forwarding of updated material safety data sheets to three entities but only names two. With respect to the Panel's oversight, the Board modifies that term and condition to include a third entity, namely, the Suburban Community Hospital.

21. Ignitable, Reactive, or Incompatible Wastes. The Applicant will not store reactive or incompatible wastes at the facility. All of the containers utilized shall be DOT approved and remain tightly sealed during transportation and storage unless a leaking container requires transfer to a clean container meeting proper specifications. The hazardous waste storage area is isolated from vehicle traffic in an area of limited activities. "No Smoking" and "Danger-Unauthorized Personnel Keep Out" signs will be prominently posted and the Applicant strictly enforces its no smoking policy in areas other than those duly designated. Personnel will be instructed and familiar with the ignition precautions required when working around ignitable materials

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including the use of spark proof tools and elimination of possible ignition sources. Storage will be on good quality wooden pallets properly stacked and spaced to permit inspection and access in the event of an emergency. The hazardous waste storage area is more than fifty (50) feet from the facility property line. The Applicant will encourage the generator of the hazardous waste to use the same container for the waste material as originally held the virgin product, thus minimizing the likelihood that the container or residual material in the container would be incompatible with the hazardous waste. The facility will not utilize tanks or waste piles for the management of hazardous waste materials. (Adoption of Recommended Finding of Fact No. 8.i)

22. Traffic. The facility will use tractors and van trailers registered with the Public Utilities Commission of Ohio permitted to transport hazardous waste. The maximum gross vehicle weight of the largest tractor trailer combination at the facility is 73,000 pounds loaded. All roads to be traveled are of either bituminous or concrete construction with load bearing capacity to withstand such loads. All traffic areas within the facility are concrete. Transportation of the hazardous waste upon receipt at the loading dock will be performed by fork lifts with a 4,000 pound rated capacity. The transportation of the hazardous wastes will on almost every occasion be provided by the vehicles used to deliver virgin solvents to the generator, resulting in negligible additional vehicular traffic to and from the facility. (Modification of Recommended Finding of Fact No. 8.j)

DISCUSSION: The Board modifies this Finding of Fact by deleting the last sentence which read: "The application identifies the access roads to the facility and traffic control devices encountered." This sentence is not supported by the record. See Finding of Fact No. 18.

23. Facility Location. The application includes a flood plain map supplied by the United States Department of Housing and Urban Development, Federal Insurance Administration, which indicates this area would not be affected by flooding. (Adoption of Recommended Finding of Fact No. 8.k)
24. Training Program. The Applicant has a training program developed through its experience as a major distributor and repacker of a wide variety of industrial chemicals and solvents many of which are classified as hazardous, and the activities of other branches of the Applicant which have been engaged in collecting spent solvents for reclaiming for over ten (10) years in states other than

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Ohio. A written document identifying the duties, responsibilities, and qualifications for each position at the facility related to hazardous waste management and the name of the employee filling each position will be maintained at the facility. Copies of the duties, responsibilities, and qualifications are included in the application. Training includes on-the-job training of at least six months and no employee will be permitted unsupervised or delegated responsibilities for hazardous waste management prior to completion of such on-the-job training. The branch manager, branch operations manager, and branch administrative manager have also received a classroom training session sponsored by Dr. Donald M. Black who is employed as the fulltime Regulatory Compliance Manager of McKesson Chemical Company. Frequent updates, advisories, and reviews will be provided to insure that employees are current on company procedures, applicable regulations, inspection procedures, equipment requirements, preventive measures, and emergency procedures. The Applicant has written training programs for truck drivers and warehousemen, including routine job functions and responses to emergency situations. Training also includes review of the contingency plan with specific emphasis upon proper utilization, location, inspection, repairing and replacing of facility safety and emergency equipment; designated alarm signals; response to facility fire or explosion; response and remedial action upon discovery of a spill or leakage, including ground water contamination, containment control, and cleanup; and job assignments in emergency situations requiring evacuation and facility shut down. All employees will receive a review at least annually regarding hazardous waste facility standards, including the potential problems and hazards of each kind of waste material managed at the facility, structures, equipment and shipping materials, changes in facility permits, incidents involving contingency plan implementation, and a review of the contingency plan. Records regarding employee training will be maintained until closure of the facility. Records for separated employees will be maintained for a minimum of three years from the date of the separation of any individual from employment. (Modification of Recommended Finding of Fact No. 8.1)

DISCUSSION: The following sentence was deleted as the subject matter is more appropriately discussed in Finding of Fact No. 25: "The Applicant has not submitted an outline of the content of the introductory and continuing training programs for the branch operations manager and the branch manager."

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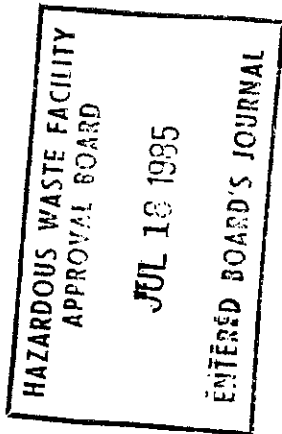
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25. Branch Operations Manager and Branch Manager. While the record shows that the branch operations manager and branch manager have received a classroom training session from the Applicant's fulltime regulatory compliance manager, the Applicant has not submitted an outline of the contents of the continuing and introductory training programs for such positions, nor is the familiarity of branch managers with emergency procedures documented in the record. See O.A.C. Rule 3745-50-44 (A)(12). Therefore, to ensure the operation of the facility in accordance with the standards of R.C. Section 3734.05 (C), a term and condition must be included in the permit requiring that before the Applicant stores any hazardous waste at the facility pursuant to the permit, the Applicant must, within sixty days of permit issuance, submit to the Ohio EPA, for its approval, a written description of the continuing and introductory training program for the branch operations manager and the branch manager, which description shall briefly outline the subject matter and content of the training that each of these managers received. (New Finding of Fact)

DISCUSSION: This material is adapted from Recommended Findings of Fact Nos. 8.g and 8.l.

(The Board notes that while the branch administrative manager is also designated as an alternate emergency coordinator (Permit application at 284), such designation does not appear in the facility's contingency plan (Permit application at 448). Therefore, the branch administrative manager is not subject to the requirements of O.A.C. Rule 3745-50-44 (A)(12).

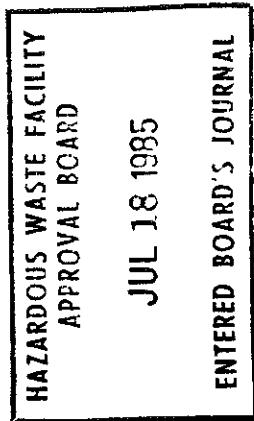
26. Closure and Post-Closure Plans. The permit sought by the Applicant is to use the facility only as an accumulation, storage, and transfer facility for spent solvents in sealed containers without disposal onsite. The facility will be either active or inactive as a storage facility in this capacity rendering partial closure inapplicable. In a closure situation, all waste would be removed in the same fashion as that practiced in the routine day to day activities of the facility. The absence of disposal activities together with the provisions of the closure plan render a post-closure plan inapplicable. Other than closure required by the expiration of the Applicant's lease in February, 1993, the Applicant is presently unable to specify an anticipated date of closure but will notify all required regulatory agencies at least one hundred eighty (180) days prior to the contemplated closure of the facility. The Applicant will maintain a copy of the closure plan at the facility and upon completion of closure provide the required certification by the Applicant and an independent registered professional engineer that the facility has been closed



in accordance with the approved closure plan. In the event of closure, notices will be sent to generators informing them of the discontinuance of receiving their waste materials and all waste materials will be removed from the site and closure activities completed within one hundred eighty (180) days. Any contaminated materials will be removed and disposed of at an appropriately permitted disposal facility and the containment area regraded to original design in the event of the removal of the surfacing material of the containment area. The Applicant anticipates that upon closure all inventory of hazardous waste would be removed and transported for recycling in the same fashion as its day to day operations but in the event this is not feasible has verified the availability of appropriately permitted disposal sites if necessary. The Applicant does not foresee or anticipate the need for an extension of closure time. The Applicant does not foresee the need for decontamination activity but has included the possibility in the closure plan by providing that decontamination would be accomplished by pressurized steam cleaning and shipment of decontamination material to an appropriately permitted disposal facility. Equipment utilized at the facility can be adequately cleaned by pressurized steam cleaning. No tanks or waste piles will be utilized at the facility. The closure plan and cost estimate will be reviewed and adjusted annually as required. (Modification of Recommended Finding of Fact No. 8.m)

DISCUSSION: The Recommended Finding of Fact was modified to comply with O.A.C. Rule 3745-55-10 (B). Post closure is applicable only to hazardous waste disposal facilities.

27. Deed or Title Notation. Notation of the use of the property as a hazardous waste facility is not required in the deed or evidence of title since the facility will be used only as a storage facility and all waste material and waste residue will be removed upon closure with the approval of required regulatory agencies. (Adoption of Recommended Finding of Fact No. 8.n)
28. Closure Cost Estimate. The application includes the most recent closure cost estimate, including: disposal charges, warehouse labor, transportation, equipment costs, decontamination costs, a contingency reserve, and engineer's certification for an aggregate of \$10,560.58. (Adoption of Recommended Finding of Fact No. 8.o)
29. Financial Assurance for Closure and Liability Purposes. The Applicant has submitted through its parent corporation, McKesson Corporation, formerly known as Foremost-McKesson Incorporated, financial information and guarantees for subsidiaries sufficient to meet the



closure and financial liability requirements. This information is set forth in the application, including: a letter of Neil E. Harlan, Chairman of the Board and Chief Financial Officer, the most recent fiscal year-end annual report certified by independent public accountants, and a special report of Deloitte, Haskins & Sells verifying that the letter from the Chief Financial Officer has been compared with the year-end report and that no matters cause them to believe the specified data from the Chief Financial Officer should be adjusted. The information from the Chief Financial Officer indicates that the financial requirements are met by a Moody's bond rating of A with respect to bonds issued April 1, 1982 and maturing April 1, 2012, that the tangible net worth of the company is at least ten million dollars, that the tangible net worth of the company is at least six times the amount of closure cost estimates and liability coverage required to be demonstrated and that at least ninety percent (90%) of the company's assets are located in the United States. (Adoption of Recommended Finding of Fact No. 8.p)

30. Topography. The application includes topographic maps, facility description and plot plan, street map, and facility location information indicating the date and scale of each map, flood plain areas, surface waters, surrounding land uses, a wind rose, orientation, legal boundaries of the facility, building and storage areas, and barriers for drainage or flood control. There are no known injection or withdrawal wells. (Adoption of Recommended Finding of Fact No. 8.q)

DISCUSSION: The phrase "indication of control devices" has been deleted from Recommended Finding of Fact No. 8.q. This subject is discussed in Finding of Fact No. 18.

31. Containment System. The application includes a description and drawing of the containment system consisting of an impervious, concrete pad approximately eight (8) inches thick in an area of approximately 300 square feet. The lowest side of the containment area is a nine inch berm providing containment capacity of 1,683 gallons. The maximum anticipated storage quantity of hazardous waste material is 5,940 gallons. The 100 year twenty-four (24) hour rainfall is approximately five (5) inches or 935 gallons in an area of 300 square feet. The containment area has sufficient capacity to contain a minimum of ten percent (10%) of the volume of waste stored plus foreseeable rainfall. The containment system includes a manually operated valve through the narrow dimension of the bermed rectangle permitting collecting, sampling and inspection prior to any release to the storm sewer. There is no evidence in the record that all

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hazardous waste leakage which may be found in accumulated precipitation is detectable through visual and olfactory inspection. The valve in the berm will be kept closed at all times except to permit the release of accumulated liquids to the storm sewer should the liquids be determined non-hazardous. If the accumulated liquid is a hazardous waste, the waste will be disposed of at an appropriately permitted facility. In the event of disposal, the Applicant will comply with the rules and standards applicable to generators of hazardous waste including the characterization of the waste to the intended disposal facility prior to shipment. Accumulated precipitation will be checked promptly, as weather conditions require, to maintain the containment system as empty as possible. To facilitate maximum drainage of the containment area a sump is installed in the lowest point within the berm and a pump is onsite if needed. All containers of hazardous waste will be stored on a double layer of wooden pallets to prevent contact with standing liquids in the containment system. (Modification of Recommended Finding of Fact No. 8.r)

DISCUSSION: See discussions above regarding "CONTAINMENT AREA" and "VISUAL AND OLFACTORY INSPECTIONS."

32. Certification. The application is signed and certified as required by O.A.C. Rule 3745-50-42. (Adoption of Recommended Finding of Fact No. 8.s)

FACTS RELATING TO R.C. SECTION 3734.05 (C)(6)(c)

33. Activities Performed. The activities to be performed at the facility are limited to the transportation and temporary storage of hazardous waste in sealed fifty-five (55) gallon containers and other types of storage or any treatment or disposal of hazardous waste is not authorized. (Modification of Recommended Finding of Fact No. 9.b)

DISCUSSION: The Recommended Finding of Fact was modified to more adequately describe the activity at the facility. Permit application at 160.

34. Familiarity with and Experience in Environmental and Safety Concerns. The Applicant is familiar with and experienced in environmental and safety concerns, the available technology, and the management of spent solvents classified as hazardous waste as a result of its years of experience in the chemical and solvent business including, specifically, the collection of spent solvents for reclaiming for ten (10) years in other states, the transportation and storage of virgin solvents having similar chemical characteristics as the hazardous waste

to be transported and stored, and the present transportation and storage of identical hazardous waste. (Adoption of Recommended Finding of Fact No. 9.c)

DISCUSSION: The parties included in their proposed findings of fact suggested language that the Applicant is familiar with and experienced in the "...economics of alternative methods..." of managing spent solvents. Stipulations at 21. The Panel recommended deleting this language, stating that the Applicant "...has not demonstrated in its siting document that it has comparatively evaluated the nature and economics of various alternatives, i.e., the environmental impact of alternative technologies it possibly could utilize to accomplish its business objectives. Instead, the (A)pplicant has merely listed the ... desirable attributes of its facility...." Evendale Report at 54, as incorporated in Report at 29.

The Applicant objected to this Recommended Finding of Fact claiming that the record indicates that the Applicant is a large company which has years of experience in handling chemicals and therefore is "familiar with and experienced in the economics of alternative methods of handling spent solvents." Objections of Applicant at 6.

The Board is in agreement with the Panel that the Stipulation's language should be deleted. The fact that an applicant may be familiar with and experienced in the nature and economics of various alternative methods of technology is irrelevant and immaterial to the determinations of the Board, unless an applicant can show that such familiarity and experience played an essential part in the selection of the method proposed. This burden is upon an applicant, as it is not for the Board to speculate or theorize why a particular method was selected or what an applicant's thought processes were with respect to this matter.

35. Zoning. The facility is located in an area zoned "I" - "Industrial." The nearest residence is over 2,000 feet from the facility. Siting Criteria Evaluation at Ohio Revised Code Section 3734.05 (C)(6)(c) p. 2; Permit application at 399a. (Adoption of Recommended Findings of Fact No. 9.d and 17)

DISCUSSION: An examination of the topographic map submitted as part of the permit application indicates a more precise figure for the distance between the facility and the nearest residence. That figure, 2,000 feet, is substituted for the Panel's description of such distance as "well away." Permit application at 399a. This Finding of Fact is supported as cited and the Discussion of the Panel under Recommended Finding of Fact No. 17 is not relevant for the purpose of establishing that Finding.

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36. Transport Vehicles. The Applicant's transport vehicles used to deliver virgin solvents to the Applicant's customers (the generators of hazardous waste) will generally be used to pick up spent solvents classified as hazardous waste at the same time. (Adoption of Recommended Finding of Fact No. 9.e)

37. Company Policies. As set forth in detail in the application and in the Findings of Fact, the Applicant has adopted company policies with respect to waste stream analysis, safety and accident prevention, contingency plan implementation in the event of an incident, employee training, inspections, and closure and cleanup of the facility, as well as others. (Adoption of Recommended Finding of Fact No. 9.f)

38. Board Resolution. The Board recognizes and encourages the use and development of treatment processes including recycling and incineration as a means of effectively managing hazardous waste while conserving valuable materials and energy resources. Hazardous Waste Facility Board Journal, Resolution 35-82, December 9, 1982. (New Finding of Fact)

DISCUSSION: Finding of Fact No. 38 is added because it is relevant and material to the Board's consideration of the application.

39. United States EPA Permit. A hazardous waste storage permit was issued to the Applicant by the United States EPA on September 29, 1983. (New Finding of Fact)

DISCUSSION: Such a finding of fact was included in the Waste Technologies Industries OPINION AND FINAL ORDER. In the Matter of Waste Technologies Industries, OPINION AND FINAL ORDER Case No. 82-NF-589 (1984), Finding of Fact No. 70 at 86.

40. State of Available Technology. Based on the types of waste received at the facility and the manner in which the facility is operated, the process employed to manage the waste is the state of the art. (New Finding of Fact)

41. De Minimis Nature of Environmental Impact. Adverse environmental impact at the facility is of a de minimis nature because of the type of waste received at the facility, the process employed to manage the waste and the manner in which the facility is operated. (New Finding of Fact)

DISCUSSION: With respect to the preceding two Findings of Fact, the Applicant is seeking a permit for short term (probably less than one month) hazardous waste storage in DOT approved containers, restricted by a limited design capacity of no more than one hundred ten (110), fifty-five (55) gallon containers, for a limited variety of spent solvents. The

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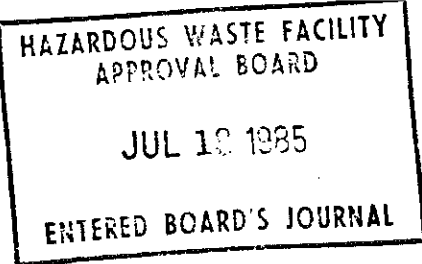
spent solvents will usually have been picked up in small numbers of containers from McKesson customers who had previously purchased the solvents as virgin material. The containers will be shipped in a sealed condition and will remain sealed while in storage, except when it is necessary to inspect the waste or to transfer waste from a damaged container. Once a sufficient number of containers have been accumulated at the facility to make transport economically feasible the containers will be moved out of state for recycling, either to New Jersey or Kentucky. Permit application at 174 and 404-405. The type of process proposed (being state of the art), the type of waste received at the facility, and the manner in which the facility is operated as set forth in the findings of fact compels the finding that the nature of the anticipated environmental impact from this facility will be de minimis.

41A. Storage Area. This is an existing chemical storage facility requiring the construction of a concrete-bermed container storage area with a valve through the berm in order to provide a suitable storage area for hazardous waste. Each face of the container storage area berm is 2 feet 6 inches in height, 9 inches of which is above grade. (Modification of Recommended Finding of Fact 9.a)

DISCUSSION: The Board is not in agreement with the Panel's finding regarding the above grade height of the berm for the container storage area. See discussion under CONTAINMENT AREA.

41B. Facility Conduct. The Applicant's employees have previously engaged in the practice of disposing of buckets of liquid near the fence of its facility and onto the property of others. These liquids did not contain hazardous waste. This practice was unauthorized and has been terminated by the Applicant. (Adoption of Recommended Finding of Fact No. 15)

DISCUSSION: As noted by the Panel at pages 33 and 34 of the Report, testimony at the public hearing indicates a concern with the Applicant's emptying of buckets of unidentified material. Finding of Fact No. 4.a, above. The Applicant did not dispute that material "in buckets was dumped" and has identified such material as steam condensate from either truck washing or boiler operation neither of which contained hazardous waste. April 13, 1984, Interrogatories: Interrogatory 37. These activities were unauthorized and have been terminated. Id. The Board is of the opinion that all facilities in the State of Ohio licensed to manage hazardous waste should be under a duty to conduct their activities in such a reasonable manner as not to cause unnecessary concern on the part of members of the public for their personal health and safety. See also Finding of Fact No. 4.a. The Board accordingly modifies Recommended Term and Condition No. 11 to read as follows:



Proper Facility Conduct.

(a) The Permittee shall not engage in any practice that would lead a reasonable person to believe that the practice constitutes an unauthorized treatment, storage or disposal of hazardous waste.

(b) During the term of this permit the Permittee shall not dispose of, or cause to be disposed, steam condensate from truck washings or boiler operation, by depositing it onto or into the ground of its property or that of adjacent landowners.

- 41C. Odors. Odors are experienced in the immediate vicinity of the facility. There is no reasonable basis to conclude that the odors experienced are in any way due to the hazardous waste operations of this facility.
(Modification of Recommended Finding of Fact No. 16)

DISCUSSION: At the public hearing a number of concerns were expressed as to whether the facility had emitted offensive odors in the past. Areas of concern were the emission of odors during unloading operations from tank cars (Public Hearing Transcript, Testimony of Ms. Cashman at p. 14) and odors which occur late at night and during the early morning hours. Public Hearing Transcript, Testimony of Mr. Marek at pp. 32-33, Ms. Laskowski at pp. 50, 56-57; Public Comment, letter of Mr. Seminock, March 1, 1984; letter of Eugene and Carol Laskowski, March 1, 1984.

A major premise of this application is that all hazardous wastes are at all times stored in tightly sealed drums. Thus, barring a hazardous waste spill, there is simply no reasonable basis for a conclusion that hazardous waste activities at this facility are responsible for or contribute to odors experienced in the vicinity of the facility at any time.

FACTS RELATING TO R.C. SECTION 3734.05 (C)(6)(d)

42. Containment Area. As set forth in detail in the application and in Finding of Fact No. 31 the facility will construct a 300 square foot containment area with a nine inch berm integral with an impervious concrete base. The containment area will have sufficient capacity to prevent overflow when managed in accordance with the terms and conditions of this permit. Essentially, all unloading, storage, and loading activities at the facility will be performed over concrete so there is no soil or earth susceptible to ground water contamination.
(Modification of Recommended Finding of Fact No. 10.a)

DISCUSSION: The Board modified the description of the containment area to conform to Finding of Fact No. 31.

The language "complying with all requirements of the U.S. Environmental Protection Agency and the Ohio Environmental Protection Agency" was deleted as being a conclusion of law.

The language concerning the sufficiency of the capacity of the containment area was modified to conform with the Board's discussion under CONTAINMENT SYSTEM.

The last sentence was inserted in accordance with the permit application at pp. 170 and 268.

43. Deletion of Recommended Finding of Fact No. 10.b.

DISCUSSION: Recommended Finding of Fact No. 10.b is disapproved as being a conclusion of law. In addition, the Board notes that this conclusion of law relating to minimum risk of contamination of surface waters directly contradicts the Board's later Conclusion of Law No. 10.

44. No Generation of Leachate. Since no disposal of hazardous waste will take place at the facility, no leachate will be generated. (Adoption of Recommended Finding of Fact No. 10.c as incorporated into the Report by the Panel's August 27, 1984, document entitled "Additional Finding of Fact.")

45. No Hazardous Waste Treatment or Disposal. The Applicant's operations will be limited to the transportation and container storage of hazardous waste and no treatment or disposal will occur at the facility. (Modification of Recommended Finding of Fact No. 11.a)

DISCUSSION: The recommended language "within the State of Ohio" was deleted and in its place inserted "at the facility." The instant case concerns only the Applicant's Bedford Heights facility and reference to other facilities which may be located within the state is not germane to this case.

45A. Shutoff Valves. The plot plan indicates six active storm drains which are not served by shutoff valves. Permit application at 171. The proposed hazardous waste storage area is located on a high point of the yard. Id. at 170. The storm drains are located at low points of the facility. Id. at 171. In the event of a spill of hazardous waste or release of emergency response materials or by-products the possibility exists that these materials will flow into the three storm drains which are the closest to the hazardous waste handling and storage areas and possibly contaminate surface and/or ground water. (New Finding of Fact)

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DISCUSSION: See discussion under VISUAL AND OLFACTORY INSPECTION above.

- 45B. Area Creeks. When the facility is operated in accordance with the terms and conditions of the permit there is no reasonable basis to conclude that its proposed hazardous waste operations will contribute to polluting any area creeks. (Modification of Recommended Finding of Fact No. 18)

DISCUSSION: The Panel's recommended finding of fact was modified as above in order to more closely conform to the evidence in the record. See also Finding of Fact No. 4.c.

46. Ignitable, Reactive or Incompatible Waste. The majority of the hazardous waste to be transported and stored by the Applicant's facility will not be ignitable and none of the hazardous wastes will be reactive or incompatible with each other or the containers in which they are stored. (Adoption of Recommended Finding of Fact No. 11.b)
47. Containers. All of the hazardous waste will be stored in DOT approved metal containers on wooden pallets for ease of manipulation and inspection, and such containers will not be opened during storage except to transfer the contents to another approved container in the event container condition requires. (Adoption of Recommended Finding of Fact No. 11.c)
48. Storage in Outside Area. The hazardous waste will be stored in an outside area preventing the accumulation of ignitable vapors. This area is more than fifty (50) feet from the property line of the facility. (Adoption of Recommended Finding of Fact No. 11.d)
49. No Sources of Ignition. There are no sources of ignition in the vicinity of the storage area and the Applicant's policy of "No Smoking" is conspicuously posted and vigorously enforced except in designated smoking areas. (Adoption of Recommended Finding of Fact No. 11.e)
50. Company Policies. As set forth in the application and in the Findings of Fact, the Applicant has adopted policies for training employees in the management of hazardous waste, inspection of hazardous waste containers during transportation and storage, safety and accident prevention, maintenance of safety and emergency equipment and training in the use thereof, and the adoption of a contingency plan in the event of an emergency including training sessions in its implementation. (Adoption of Recommended Finding of Fact No. 11.f)

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51. Local Fire Department. The facility has been inspected by the local fire department. The fire department has been given a list of hazardous wastes to be managed and will be given, in the event of an emergency, a list of the actual hazardous wastes located on the site. (Adoption of Recommended Finding of Fact No. 11.g)
52. Vehicular Traffic. Since the hazardous waste will be transported on almost every occasion by the transportation vehicles used to deliver virgin solvents to the Applicant's customers, and present estimates involve approximately one load of hazardous waste to be transported from the facility to the recycling center per week, the storage of hazardous waste at the facility will result in negligible additional vehicular traffic to and from the facility. (Adoption of Recommended Finding of Fact No. 12.a)
53. Management of Hazardous Waste During Transportation. The Applicant's employees responsible for managing the hazardous waste during transportation are already experienced in the managing of hazardous substances including virgin solvents having similar chemical characteristics as the waste materials to be managed, and identical hazardous wastes presently stored on a temporary basis by the Applicant. (Adoption of Recommended Finding of Fact No. 12.b)
54. Company Policies. As set forth in the application and in the Findings of Fact, the Applicant has well established and rigidly enforced policies to reduce the risk of any accident or release during transportation, including: the exclusive use of DOT approved containers, instruction of customers as to acceptable procedures and containers for spent solvents, driver training concerning labeling, condition and appearance of containers, proper manifesting in accordance with U.S. EPA and DOT regulations, compliance with all DOT regulations regarding standards of vehicles, placarding, safety, driver training, and weight limitations. (Adoption of Recommended Finding of Fact No. 12.c)

FACTS RELATING TO R.C. SECTION 3734.05 (C)(6)(e)

55. Air Pollution. There is no source of air pollution subject to R.C. Chapter 3704 associated with this permit application. (Adoption of Recommended Finding of Fact No. 13.a)

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56. Water Pollution. There is no source of water pollution subject to R.C. Chapter 6111 associated with this permit application. (Adoption of Recommended Finding of Fact No. 13.b)
57. Compliance with R.C. Chapter 3734. When operated in accordance with the description of operations set forth in the application, and the Siting Criteria Evaluation and with the terms and conditions of the permit the facility will comply with R.C. Chapter 3734 and all rules and standards adopted thereunder. (Adoption of Recommended Finding of Fact No. 13.c)
58. Awareness of and Familiarity with R.C. Chapter 3734. The Applicant has demonstrated awareness of and familiarity with the statutory provisions of R.C. Chapter 3734 and the rules and standards adopted thereunder, as well as the necessity of compliance therewith. (Adoption of Recommended Finding of Fact No. 14)

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TERMS AND CONDITIONS

For the reasons set forth in the OPINION the Board disapproves the following recommended term and condition:

- No. 9 - (re: calculation of specific gravity/waste analysis plan)

For the reasons set forth in the OPINION the Board modifies the following recommended terms and conditions:

- No. 2 - (re: container storage limitation) (Note: This term and condition is renumbered C.10)
- No. 3 - (re: installation of emergency shutoff valves on storm drains) (Note: This term and condition is renumbered B.38)
- No. 4 - (re: visual and olfactory inspection in the event of a hazardous waste spill) (Note: This term and condition is renumbered B.15)
- No. 5 - (re: material safety data sheets) (Note: This term and condition is renumbered D.1)
- No. 7 - (re: description of containment system) (Note: This term and condition is renumbered A.26(b))
- No. 8 - (re: visual and olfactory inspection for accumulated precipitation) (Note: This term and condition is renumbered B.16)
- No. 10 - (re: access to fire hydrant) (Note: This term and condition is renumbered B.37)
- No. 11 - (re: proper facility conduct) (Note: This term and condition is renumbered B.36)
- No. 12 - (re: designation of Yard Assembly Point Leader) (Note: This term and condition is renumbered B.35)

For the reasons set forth in this OPINION the Board approves the following recommended terms and conditions:

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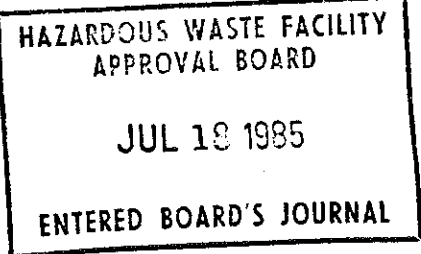
No. 1 - (re: commencement of storage; submittal of documents; and transportation of waste) (Note: this term and condition is renumbered A.15)³

No. 6 - (re: continuing and introductory training program for branch operations manager and branch manager) (Note: This term and condition is renumbered A.26(a))

The Board further modifies the permit recommended by the Panel by adding additional terms and conditions which are necessary to ensure the construction and operation of the facility in accordance with the standards of R.C. Section 3734.05. These terms and conditions are at least as stringent as those in the U.S. EPA issued RCRA permit submitted by the Applicant and are similar to those set forth in the new facility permits that have been issued by the Board. Pursuant to R.C. Section 3734.02 (E), the term of the permit is established as five years.

The Board takes no action with respect to the draft permit jointly prepared and submitted by the Ohio EPA and the Applicant pursuant to the May 11, 1984, order of the presiding administrative law judge. The Panel made no recommendation with respect to the draft permit and, in fact, the purpose of the order was merely "to enable the Board to expedite its review process." Report at 7. Because R.C. 119.09 only requires this Board to approve, disapprove, or modify the recommendations contained in the report and recommendation, the Board chooses not to respond to the draft permit.

³Term and Condition No. A.15 will be clerically revised as follows: (1) the term "regulations" will be replaced with the phrase "rules, the terms and conditions of this permit, and the permit application;" (2) in paragraph (b) the term "Director" will be replaced by "Ohio Environmental Protection Agency;" (3) in paragraph (c) the term "permitted transporter" will be replaced with the term "registered transporter" (See R.C. Section 3734.15) and the term "applicable rules" will be replaced by "applicable laws, rules;" and (4) in all cases the word "will" will be replaced by "shall."



CONCLUSIONS OF LAW

The conclusions of law recommended by the Panel are approved to the extent that they are consistent with the OPINION AND FINAL ORDER and the Conclusions of Law set forth below. Recommended Conclusion of Law No. 11 is disapproved on the basis that it is unnecessary in light of the Board's Finding of Fact No. 41C. Pursuant to R.C. Section 3734.05 (C)(6), the Board finds and determines:

1. The proposed facility is a hazardous waste facility.
2. The Ohio Hazardous Waste Facility Board has jurisdiction to approve or disapprove applications for a hazardous waste facility installation and operation permit. The application of the McKesson Chemical Company for its hazardous waste facility to be located at 26601 Richmond Road, Bedford Heights, Ohio is properly before the Board and this Board has jurisdiction to hear and determine the issues involved and to approve or disapprove the application for a hazardous waste permit, as appropriate.
3. The burden of proof as to the entitlement to a hazardous waste permit is upon the applicant; the standard of proof being the civil case standard of the preponderance of the evidence.
4. Before a hazardous waste permit may be issued, the applicant must prove by a preponderance of the evidence that the facility will comply with or demonstrate the requirements set forth in R.C. Section 3734.05 (C)(6).
5. Where there are no disputed issues between the parties respecting the approval or disapproval of a permit application, there is no duty upon the Board to convene an adjudication hearing.
6. The nature and volume of the waste to be treated, stored or disposed of at the facility has been found and determined. [R.C. Section 3734.05 (C)(6)(a)]
7. The facility, if operated consistent with the terms and conditions of the permit, complies with the Director's hazardous waste standards adopted pursuant to R.C. Section 3734.12. [R.C. Section 3734.05 (C)(6)(b)]
8. Where an applicant shows that the demonstrated technology it proposes will result in a de minimis adverse environmental impact, then no further examination of other technologies is required.

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DISCUSSION: The phrase "considering the state of available technology and the nature and economics of various alternatives, and other pertinent considerations" generally would require the Board to consider whether an applicant has provided a sufficiently environmentally protective technology or technologies in its plans, and to evaluate the nature and economics of alternatives to such technology. In this regard, the Board would normally both look from the technology proposed to more advanced or more environmentally protective technologies, and consider the nature and economics of those alternative technologies for the purpose of determining whether a more advanced, more environmentally protective technology can be or should be applied. In the Matter of Waste Technologies Industries, OPINION AND FINAL ORDER, Case No. 82-NF-589 (1984) at 27. Where, however, an applicant shows that the demonstrated technology it proposes will result in a de minimis adverse environmental impact when considering the types of waste to be received at the facility, the process employed to manage the waste, and the manner in which the facility is operated, then no further examination of other technologies is required.

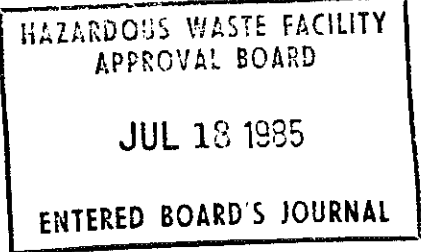
9. The facility, if operated consistent with the terms and conditions of the permit, represents the minimum adverse environmental impact, considering the state of available technology and the nature and economics of various alternatives, and other pertinent considerations. [R.C. Section 3734.05 (C)(6)(c)]
10. The facility, if operated consistent with the terms and conditions of the permit, represents the minimum risk of:
 - (i) contamination of ground and surface waters by leachate and runoff from the facility;
 - (ii) fires and explosions from improper treatment, storage, or disposal methods; and
 - (iii) accident during transportation of hazardous waste to the facility. [R.C. Section 3734.05 (C)(6)(d)]
11. The facility, if operated consistent with the terms and conditions of the permit, will comply with Chapters 3704., 3734., and 6111. of the Revised Code and all rules and standards adopted under these chapters. [R.C. Section 3734.05 (C)(6)(e)].
12. The amendment of R.C. Section 3734.05 (C), as provided for in Amended Substitute House Bill No. 506, is not applicable to the instant case as the McKesson Chemical Company's application for a hazardous waste facility

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installation and operation permit was transmitted to the Board prior to the effective date of the amendment of that division, which date was August 1, 1984. Amended Substitute House Bill No. 506, Section 5, effective August 1, 1984.

13. The Applicant has met and complied with all prerequisites and requirements for the issuance of a hazardous waste facility installation and operation permit.
14. The Applicant is entitled to the issuance of a hazardous waste facility installation and operation permit pursuant to R.C. Chapter 3734 and the rules and standards adopted thereunder.
15. The terms and conditions included in the hazardous waste facility installation and operation permit to be issued to the Applicant are necessary to ensure the construction and operation of the hazardous waste facility in accordance with the standards of R.C. Section 3734.05.

ORDER

It is therefore,

1. ORDERED, that the findings of fact, conclusions of law, and terms and conditions to be inserted in the permit, as set forth and discussed in the foregoing OPINION, should be and are hereby adopted as part of this ORDER.

It is further

2. ORDERED, that the application of the McKesson Chemical Company for a hazardous waste facility installation and operation permit for a hazardous waste facility to be located at 26601 Richmond Road, Bedford Heights, Ohio, Case No. 83-NF-0628 is hereby approved in conformity with this OPINION AND FINAL ORDER.

It is further

3. ORDERED, that the hazardous waste facility installation and operation permit attached hereto shall be issued with the terms and conditions incorporated therein.

It is further

4. ORDERED, that all objections and motions not specifically ruled upon herein are hereby denied.

It is further

5. ORDERED, that the effective date of this OPINION AND FINAL ORDER shall be and is hereby designated as the date upon which it is entered into the Journal of the Board.

It is further

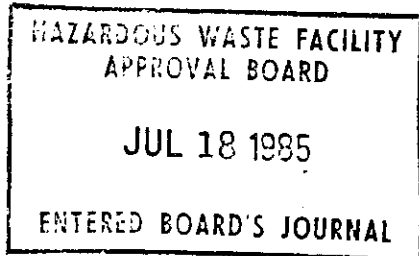
6. ORDERED, that copies of this OPINION AND FINAL ORDER shall be served in accordance with the attached Certificate of Service.

It is further

7. ORDERED, that a copy of this OPINION AND FINAL ORDER shall be made available, upon request, to all interested persons.

Issued at Columbus, Ohio
the 21 day of
June, 1985.

Entered in the Journal of
the Board the 18 day
of JULY, 1985.



THE OHIO HAZARDOUS WASTE
FACILITY BOARD

Warren W. Tyler, Chairman
Ex Officio, and Director of
Environmental Protection

Horace B. Collins
Horace Collins, Board Member and
Chief, Division of Geological
Survey, Ohio Department of
Natural Resources, Designee of
Director of Natural Resources

E. Ben Ransom
E. Ben Ransom, Board Member and
Executive Director, Ohio Water
Development Authority, Designee of
the Chairman of the Ohio Water
Development Authority

Thomas L. Sweeney
Dr. Thomas L. Sweeney, Board
Member, Chemical Engineer, and
Associate Vice President for
Research and Graduate Studies, The
Ohio State University

W. B. Clapham, Jr.
Dr. W. B. Clapham, Jr., Board
Member, Geologist, and Associate
Professor of Geological Sciences,
Cleveland State University

HAZARDOUS WASTE FACILITY
APPROVAL DATED

JUL 16 1985

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STATEMENT OF THE TIME AND METHOD
BY WHICH AN APPEAL MAY BE PERFECTED

YOU ARE HEREBY ADVISED THAT: Any party adversely affected by an order of the Hazardous Waste Facility Board may appeal the order and decision of the Board to the Court of Appeals of Franklin County. An appellant shall file with the Board a notice of appeal, which shall designate the order appealed from. A copy of the notice shall also be filed by the appellant with the court, and a copy shall be sent by certified mail to each party to the adjudication hearing before the Board. Such notices shall be filed and mailed within thirty days after the date upon which appellant received notice from the Board by certified mail of the making of the order appealed from. No appeal bond shall be required to make an appeal effective.

For additional information, see R.C. Section 3734.05 (C)(7).

STATE OF OHIO

HAZARDOUS WASTE FACILITY INSTALLATION AND OPERATION PERMIT

MCKESSON CHEMICAL COMPANY

BEDFORD HEIGHTS, OHIO

NO: 02-18-0628

HAZARDOUS WASTE FACILITY
APPROVAL BOARD

JUL 18 1985

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OHIO HAZARDOUS WASTE FACILITY BOARD

OHIO HAZARDOUS WASTE FACILITY INSTALLATION AND OPERATION PERMIT

Name of Permittee: McKesson Chemical Company

Facility Mailing Address: 26601 Richmond Road
Bedford Heights, Ohio 44146

Facility Location: 26601 Richmond Road
Bedford Heights, Ohio 44146

Permit Number: 02-18-0628

Permit Effective Date: Date of Journalization

Permit Expiration Date: Five years after the date of
Journalization

AUTHORIZED ACTIVITIES

In reference to the application of McKesson Chemical Company for an Ohio Hazardous Waste Facility Installation and Operation Permit under R.C. Chapter 3734 and the record of proceedings in this matter, you are authorized to conduct at the above-named facility the following hazardous waste management activities:

STORAGE	TREATMENT	DISPOSAL
<input checked="" type="checkbox"/> Container	<input type="checkbox"/> Tank	<input type="checkbox"/> Injection Well
<input type="checkbox"/> Tank	<input type="checkbox"/> Surface Impoundment	<input type="checkbox"/> Landfill
<input type="checkbox"/> Waste Pile	<input type="checkbox"/> Incinerator	<input type="checkbox"/> Land Application
<input type="checkbox"/> Surface Impoundment	<input type="checkbox"/> Other	<input type="checkbox"/> Surface Impoundment

CONSTRUCTION AND OPERATION OF FACILITY

The hazardous waste facility shall be constructed and operated in accordance with all applicable Ohio hazardous waste rules, as such term is defined in O.A.C. Rule 3745-50-10, the terms and conditions of this permit, and the hazardous waste facility installation and operation permit application. In the instance of discrepancies or inconsistent language therein, the language of the more stringent provision shall govern.

HAZARDOUS WASTE FACILITY
APPROVAL BOARD

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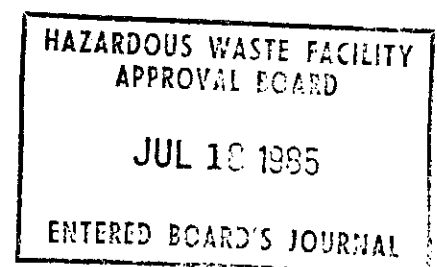
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PERMIT APPROVAL

This permit approval is based upon the record of proceedings in this matter, including the written OPINION AND FINAL ORDER of the Board, which is maintained at the offices of the Ohio Hazardous Waste Facility Board.

Entered into the Journal of the Board this 18 day
of JULY, 1985

by Edwin Y. Lim
Edwin Y. Lim, Acting Executive Director
Ohio Hazardous Waste Facility Board



HAZARDOUS WASTE FACILITY
APPROVAL BOARD

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A. STANDARD TERMS AND CONDITIONS

A.1. Effect of Permit.

The Permittee is authorized to store hazardous waste in accordance with the terms and conditions of this permit, all applicable Ohio hazardous waste rules, and the hazardous waste facility installation and operation permit application. In the instance of discrepancies or inconsistent language between the permit, the application, or the rules, the language of the more stringent provision shall govern. Any management of hazardous waste not authorized by this permit is prohibited, unless otherwise expressly or specifically exempted by law. Issuance of this permit does not convey property rights of any sort or any exclusive privilege; nor does it authorize any injury to person or property, or invasion of other private rights. Compliance with the terms and conditions of this permit does not obviate Permittee's obligation to comply with other applicable provisions of law governing protection of public health or the environment.

A.2. Permit Actions.

This permit may be modified, revised, revoked, suspended, or renewed as specified by Ohio law. The filing of a request for a permit modification, revision, revocation, suspension, or renewal or the notification of planned changes or anticipated noncompliance on the part of the Permittee does not stay the applicability or enforceability of any permit term or condition.

A.3. Permit Effective/Expiration Date.

The permit effective date is the date the permit is entered into the Journal of the Board. The permit expiration date is five (5) years after the date of journalization.

A.4. Severability.

The provisions of this permit are severable, and if any provision of this permit or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

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A.5. Duty to Comply.

The Permittee shall comply with all terms and conditions of this permit, except to the extent and for the duration such noncompliance is authorized by the laws of the State of Ohio. Any permit noncompliance, other than noncompliance authorized by the laws of the State of Ohio, constitutes a violation of R.C. Chapter 3734 and the rules adopted thereunder and is grounds for enforcement action, suspension, revocation, modification, revision, denial of a permit renewal application, or other appropriate action.

A.6. Duty to Reapply and Permit Expiration.

If the Permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the Permittee must submit a completed application for an installation and operation permit renewal and any necessary accompanying general plans, detail plans, specifications, and such other information as the Director may require, to the Director no later than one hundred eighty (180) days prior to the expiration date of this permit or upon a later date prior to the expiration date if the Permittee can demonstrate good cause for the late submittal. This permit and all terms and conditions therein shall remain in effect beyond this permit's expiration date if the Permittee has submitted a timely, complete application and through no fault of Permittee a new permit has not been issued.

A.7. Need to Halt or Reduce Activity Not a Defense.

It shall not be a defense for the Permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the terms and conditions of this permit.

A.8. Duty to Mitigate.

The Permittee shall expeditiously take all steps necessary to minimize or correct any adverse impact on the environment resulting from noncompliance with this permit.

A.9. Proper Operation and Maintenance.

The Permittee shall at all times properly operate and maintain the facility (and related appurtenances) to achieve compliance with the terms and conditions of this permit. Proper operation and maintenance includes, but is

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not limited to, effective management practices, adequate funding, adequate operator staffing and training, and where appropriate adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of a back-up or auxiliary facility or similar systems only when necessary to achieve compliance with the terms and conditions of the permit.

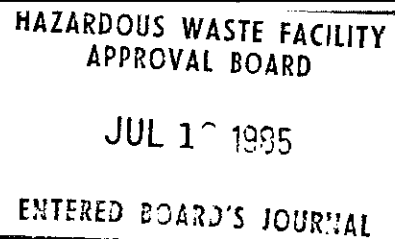
A.10. Duty to Provide Information.

The Permittee shall furnish the Ohio Environmental Protection Agency, within a reasonable time, any relevant information which the Ohio Environmental Protection Agency may request to determine whether cause exists for modifying, revising, revoking or suspending this permit, or to determine compliance with this permit. The Permittee shall also furnish to the Ohio Environmental Protection Agency, upon request, copies of records required to be kept by this permit.

A.11. Inspection and Entry.

The Permittee shall allow the Director, or an authorized representative, upon proper identification as may be required by law, to:

- (a) enter at reasonable times upon the Permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the terms and conditions of this permit;
- (b) have access to and copy, at reasonable times, any records required to be kept under the terms and conditions of this permit;
- (c) inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under the terms and conditions of this permit; and
- (d) sample or monitor, at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by R.C. Chapter 3734 and the rules adopted thereunder, any substance or parameter at any location.



A.12. Monitoring and Records.

- (a) Any sample and measurement taken for the purpose of monitoring shall be a representative sample or measurement, as such term is defined and used in the Ohio hazardous waste rules. ~~The method used to~~ obtain a representative sample of the waste to be analyzed must be the appropriate method from Appendix I of O.A.C. Chapter 3745-51, Laboratory Methods. Laboratory methods must be those specified in Test Methods for Evaluating Solid Waste: Physical/Chemical Methods, SW-846, June 1982; Standard Methods for the Examination of Water and Wastewater, Fifteenth Edition, 1980, and 1981 supplement; or an equivalent method as specified in the waste analysis plan (permit application pages 174 through 221) or as such term is defined and used in the Ohio hazardous waste rules.
- (b) Records of monitoring information shall specify the:
- (i) date(s), exact place(s), time(s) and method(s) of sampling or measurement;
 - (ii) individual(s) who performed the sampling or measurement;
 - (iii) date(s) analyses were performed;
 - (iv) individual(s) who performed the analyses;
 - (v) analytical technique(s) or method(s) used; and
 - (vi) results of such analyses.

A.13. Retention of Records.

The Permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation and copies of all reports and records required by this permit, for a period of at least three (3) years from the date of the sample, measurement, report and record. The periods of record retention may be extended by request of the Ohio Environmental Protection Agency at any time and are automatically extended during the course of any unresolved enforcement action regarding the facility. The Permittee shall maintain, in accordance with the Ohio hazardous waste rules, records of all data used to complete the permit application and any supplemental information

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prepared under O.A.C. Rules 3745-50-41, 3745-50-43, and 3745-50-44 and shall retain a complete copy of the application for the life of the facility.

A.14. Notices of Planned Changes.

The Permittee shall give notice in accordance with the terms and conditions of this permit and the Ohio hazardous waste rules of any planned operational or physical facility changes of any kind.

A.15. Use of Facility.

(a) The Permittee may not commence storage of hazardous waste; or should this facility be modified, the Permittee may not treat, store or dispose of hazardous waste in the modified portion of the facility, until:

(i) the Permittee has submitted to the Ohio Environmental Protection Agency, by certified mail or hand delivery, a letter signed by the Permittee and a registered professional engineer stating that the facility has been constructed or modified in compliance with applicable rules, the terms and conditions of this permit, and the permit application; and

(ii) the Ohio Environmental Protection Agency has inspected the modified or newly constructed facility and finds that it is in compliance with all applicable rules, the terms and conditions of this permit and the permit application.

(b) The Permittee shall submit the following to the Ohio Environmental Protection Agency within ninety (90) days after the close of the company's fiscal year (March 31):

(i) updated financial test demonstration for closure assurance, in accordance with O.A.C. Rule 3745-55-43 and O.A.C. Rule 3745-55-46, and worded as specified in O.A.C. Rule 3745-55-51;

(ii) updated financial test demonstration for liability insurance, in accordance with O.A.C. Rule 3745-55-47, and worded as specified in O.A.C. Rule 3745-55-51; and

(iii) updated cost estimate for closure in accordance with O.A.C. Rule 3745-55-42.

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(c) All hazardous waste shall be transported to and from the facility by a properly registered transporter of hazardous waste in accordance with all applicable laws, rules, and standards and the vast majority of the hazardous waste shall be transported by the Permittee or one of its affiliates.

(d) All hazardous waste removed from the facility shall be transported to a McKesson operated facility, except as otherwise provided in the contingency, closure, and container management plans with respect to disposal at permitted facilities.

A.16. Anticipated Noncompliance.

The Permittee shall give advance notice to the Ohio Environmental Protection Agency of any planned changes in the facility or operations which may result in noncompliance with the terms and conditions of this permit. Such notification does not waive the Permittee's duty to comply with this permit pursuant to Condition A.5.

A.17. Transfer of Permit.

This permit may be transferred to a new owner or operator only if such transfer is conducted in accordance with R.C. Chapter 3734 and the rules adopted thereunder. Before transferring ownership or operation of the facility the Permittee shall notify the new owner or operator in writing of the requirements of R.C. Chapter 3734 and the rules adopted thereunder.

A.18. Compliance Schedules.

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted to the Ohio Environmental Protection Agency no later than fourteen (14) days following each scheduled date, unless otherwise specified in the compliance schedule.

A.19. Immediate Reporting of Noncompliance.

The Permittee shall immediately report to the Ohio Environmental Protection Agency Office of Emergency Response any noncompliance with this permit, R.C. Chapter 3734 or the rules adopted thereunder, which noncompliance may endanger human health or the environment. Such report

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shall consist of the information listed in Condition A.19 (a) and (b) that is available at such time. After initial notification, the Permittee shall immediately report to the Ohio Environmental Protection Agency Office of Emergency Response any subsequent changes in the situation as conditions warrant until the Permittee has provided the Ohio Environmental Protection Agency Office of Emergency Response with all the informational requirements of this condition and in no event shall this information be reported to the Ohio Environmental Protection Agency Office of Emergency Response later than twenty-four (24) hours after the initial report. The report shall include the following:

- (a) information concerning release of any hazardous waste that may cause an endangerment to public drinking water supplies; and
- (b) information concerning a release or discharge of any hazardous waste, or of a fire or explosion at the facility, which could threaten the environment or human health, inside or outside the facility. The description of the occurrence and its cause shall include:
 - (i) name, address, and telephone number of the owner or operator;
 - (ii) name, address, and telephone number of the facility;
 - (iii) date, time, type and source of release, discharge or incident;
 - (iv) local weather conditions;
 - (v) name and quantity of material(s) involved;
 - (vi) the extent of injuries, if any;
 - (vii) an assessment of actual or potential hazard to the environment and human health, inside and outside the facility, where this is applicable;
 - (viii) the response the Permittee has taken to contain and monitor the release, discharge or incident;
 - (ix) who has been notified;
 - (x) any monitoring results; and

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- (xi) estimated quantity and disposition of recovered material that resulted from the release, discharge or incident.

A.20. Follow-Up Written Report of Noncompliance.

A written report shall also be provided to the Ohio Environmental Protection Agency Office of Emergency Response within five (5) days of the time the Permittee becomes aware of the circumstances reported in Condition A.19. The written report shall contain a description of the noncompliance and its cause; the periods of noncompliance (including exact dates and times), whether the noncompliance has been corrected; and, if not, the anticipated time it is expected to continue; and steps taken or planned to minimize the impact on human health and the environment and to reduce, eliminate, and prevent recurrence of the noncompliance. The Permittee need not comply with the five day written report requirement if the Director, upon good cause shown by the Permittee, by order waives that requirement and the Permittee submits a written report within fifteen (15) days of the time the Permittee becomes aware of the circumstances.

A.21. Other Noncompliance.

The Permittee shall report to the Ohio Environmental Protection Agency Division of Solid and Hazardous Waste Management all other instances of noncompliance not provided for in Condition A.19 at the time monitoring reports are submitted. The reports shall contain the information set forth in Condition A.19.

A.22. Other Information.

If at any time the Permittee becomes aware that it failed to submit any relevant facts in the permit application, or submitted incorrect, misleading, or incomplete information in the permit application or in any other submission or report to the Ohio Environmental Protection Agency or the Ohio Hazardous Waste Facility Board, the Permittee shall promptly submit such facts, information, or corrected information to such entities.

A.23. Signatory Requirement.

All reports or other information required by the terms and conditions of this permit or requested by the Ohio Environmental Protection Agency shall be signed and certified according to O.A.C. Rule 3745-50-42.

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A.24. Confidential Information.

In accordance with R.C. Chapter 3734 and the rules adopted thereunder, the Permittee may request confidentiality of any information required to be submitted by the terms and conditions of this permit.

A.25. Ohio Permit Annual Fee.

The permit annual fee, payable to the Treasurer of State, shall be submitted to the Ohio Environmental Protection Agency on or before the anniversary of the date of issuance during the term of the permit. As used in this permit, the date of issuance is the date the permit was entered into the Journal of the Board.

A.26. Compliance Schedule - Documents.

- (a) The Permittee shall submit to the Ohio Environmental Protection Agency within sixty (60) days after permit issuance, for its approval: a written description of the continuing and introductory training program for the branch operations manager and the branch manager. This description shall briefly outline the subject matter and content of the training that each of these managers receives. No hazardous waste shall be stored at the facility pursuant to this permit without the aforementioned approval of the Ohio Environmental Protection Agency.
- (b) The Permittee shall submit to the Ohio Environmental Protection Agency within sixty (60) days after permit issuance, for its approval: (i) a complete and accurate description of the containment area (including blueprints identical to the drawing on page 432 of the permit application except that the berm shall be nine inches above the surface of the containment area) and materials of construction of all components; (ii) a plan to remove accumulated liquid in the containment area to prevent overflow of the berm. Such plan shall take into consideration the liquids draining from the roof of the warehouse and the loading platform which may accumulate in the containment system.

A.27. Documents to be Maintained at Facility.

- (a) The Permittee shall maintain at the facility until closure is completed and certified by an independent

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registered professional engineer the following documents and amendments, revisions, and modifications to these documents:

- (i) waste analysis plan submitted in accordance with O.A.C. Rule 3745-54-13 and the terms and conditions of this permit;
 - (ii) contingency plan submitted in accordance with O.A.C. Rule 3745-54-53 and the terms and conditions of this permit;
 - (iii) closure plan submitted in accordance with O.A.C. Rule 3745-55-12 and the terms and conditions of this permit;
 - (iv) cost estimate for facility closure submitted in accordance with O.A.C. Rule 3745-55-42 and the terms and conditions of this permit;
 - (v) personnel training plan and the training records required by O.A.C. Rule 3745-54-16 and the terms and conditions of this permit;
 - (vi) operating record required by O.A.C. Rule 3745-54-73 and the terms and conditions of this permit; and
 - (vii) inspection schedules developed in accordance with O.A.C. Rules 3745-54-15 and 3745-55-74 and the terms and conditions of this permit;
- (b) All amendments, revisions and modifications to any plan or cost estimate required by the terms and conditions of this permit or the Ohio hazardous waste rules shall be submitted to the Ohio Environmental Protection Agency. No such change shall be made unless the Permittee has received approval in accordance with the Ohio hazardous waste rules.

B. GENERAL FACILITY

B.1. Construction, Maintenance and Operation of Facility.

The Permittee shall construct, maintain, and operate the facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or ground or surface water.

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B.2. Required Notice.

- (a) The Permittee shall notify the Ohio Environmental Protection Agency in writing at least four (4) weeks in advance of the date the Permittee expects to receive hazardous waste from a non-United States source. Notice of subsequent shipments of the same waste from the same non-United States source in the same calendar year is not required.
- (b) When the Permittee is to receive hazardous waste from an offsite source, the Permittee shall inform the generator in writing that it has the appropriate permits for, and will accept, the waste the generator is shipping. The Permittee shall keep a copy of this written notice as part of its operating record.

B.3. General Waste Analysis Plan.

The Permittee shall follow the procedures described in the waste analysis plan (permit application pages 174 through 221).

B.4. Security.

The Permittee shall comply with the security provisions of O.A.C. Rule 3745-54-14 (permit application pages 222 through 224).

B.5. General Inspection Requirements.

The Permittee shall follow the procedures and schedules described in the inspection plan (permit application pages 225 through 233). The Permittee shall remedy any deterioration or malfunction discovered by an inspection as required by O.A.C. Rule 3745-54-15 (C). Records of inspections shall be kept as required by O.A.C. Rule 3745-54-15 (D).

B.6. Personnel Training.

The Permittee shall conduct personnel training as required by O.A.C. Rule 3745-54-16. This training program shall follow the outline set forth in the permit application at pages 278 through 318 and the Ohio Environmental Protection Agency approved outline. (See Condition A.26(a)) The Permittee shall maintain training documents and records as required by O.A.C. Rule 3745-54-16 (D) and (E).

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B.7. General Requirements for Ignitable, Reactive, or Incompatible Waste.

The Permittee shall comply with the requirements of O.A.C. Rule 3745-54-17 (A) and (B) and the documentation requirements of O.A.C. Rule 3745-54-17 (C).

B.8. Required Equipment.

At a minimum, the Permittee shall equip the facility with the equipment set forth in the permit application pages 228 through 231; 234 through 260 and 434 through 492 as required by O.A.C. Rule 3745-54-32; and the permit terms and conditions.

B.9. Testing and Maintenance of Equipment.

The Permittee shall test and maintain the equipment specified in the previous permit condition as necessary to assure its proper operation in time of emergency, as is specified in O.A.C. Rule 3745-54-33, the permit application, and the permit terms and conditions.

B.10. Access to Communications or Alarm System.

The Permittee shall maintain access to communications or an alarm system as required by O.A.C. Rule 3745-54-34, the permit application, and the terms and conditions of this permit.

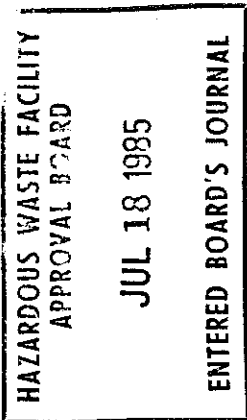
B.11. Required Access.

The Permittee shall maintain access to the storage area through pedestrian aisle space and maintain the perimeter in an unobstructed manner in order to allow access by decontamination, spill control, and fire protection equipment as required by O.A.C. Rule 3745-54-35.

B.12. Arrangements with Local Authorities.

(a) The Permittee shall make a diligent effort to:

- (i) familiarize the emergency response agencies listed in the contingency plan (permit application page 455) with the layout of the facility, properties of hazardous waste managed at the facility and associated



hazards, places where facility personnel will normally be working, entrances to and roads inside the facility, and possible evacuation routes;

- (ii) inform the agencies listed in the contingency plan of safety equipment, supplies, proper emergency safety procedures that are applicable to the facility, and any further requirements imposed by the terms and conditions of this permit; and
 - (iii) familiarize Suburban Community Hospital with the properties of the hazardous waste managed at the facility and the types of injuries or illness which could result from fires, explosions, or releases at the facility.
- (b) Where a State or local agency declines to enter into such arrangements as set forth in O.A.C. Rule 3745-54-37(A), the Permittee shall document the refusal in the operating record as required by O.A.C. Rule 3745-54-37(B) and notify the Ohio Environmental Protection Agency of such refusal.
- (c) The Permittee shall, in accordance with O.A.C. Rule 3745-54-53, submit a copy of its contingency plan, including all amendments, revisions or changes, to the agencies designated in the contingency plan. The Permittee shall notify the agencies, in writing, within ten (10) days of the effective date of any amendments, revisions or changes to the contingency plan.

B.13. Contingency Plan Implementation.

The Permittee shall immediately implement the provisions of the contingency plan and follow the emergency procedures described in O.A.C. Rule 3745-54-56, whenever there is a fire, explosion, or release of hazardous waste or hazardous waste constituents which threatens or could threaten human health or the environment.

B.14. Content of Contingency Plan.

The Permittee shall comply with O.A.C. Rule 3745-54-52 and the contingency plan as set forth in pages 234 through 260 and 434 through 492 of the permit application.

B.15. Contingency Plan - Released Material and Emergency Response Material and By-Products.

In the event of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents which necessitates the implementation of the facility's contingency plan, the Permittee shall shut off the storm drains on the facility property. All fire, explosion, or released material and emergency response material and by-products shall be collected and managed as hazardous waste until the Permittee can, pursuant to the Ohio hazardous waste rules, demonstrate to the approval of the Ohio Environmental Protection Agency that such material is not subject to the requirements of the Ohio hazardous waste rules.

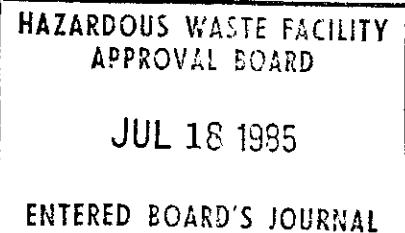
B.16. Contingency Plan - Accumulated Precipitation.

The Permittee shall not manage hazardous waste at the facility, pursuant to this permit, unless:

- (a) the Permittee has submitted to the Ohio Environmental Protection Agency a certified statement that all accumulated precipitation at the facility will be managed as a hazardous waste; or
- (b) the Permittee has submitted to the Ohio Environmental Protection Agency, and the Ohio Environmental Protection Agency has approved, an analysis plan to be implemented at the facility, which plan does not rely exclusively on visual and olfactory inspections and is capable of determining whether accumulated precipitation is contaminated, thereby requiring its management as a hazardous waste; or
- (c) the Permittee has submitted to the Ohio Environmental Protection Agency, and the Ohio Environmental Protection Agency has approved, a plan to be implemented at the facility which will ensure that precipitation does not enter the area in which hazardous waste is managed.

B.17. Amendment of Contingency Plan.

The Permittee shall regularly review and, if necessary, immediately amend the contingency plan as required by O.A.C. Rule 3745-54-54.



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B.18. Emergency Coordinator.

The Permittee shall comply with the requirements set forth in O.A.C. Rule 3745-54-55 regarding the emergency coordinator.

B.19. Emergency Procedures.

The Permittee shall comply with the requirements set forth in O.A.C. Rule 3745-54-56 regarding emergency procedures.

B.20. Manifest.

The Permittee shall comply with the manifest requirements set forth in O.A.C. Rules 3745-54-71, 3745-54-72, and 3745-54-76.

B.21. Operating Record and Availability, Retention and Disposition of Records.

The Permittee shall maintain a written operating record at the facility as set forth in O.A.C. Rules 3745-54-73 and 3745-54-74.

B.22. Annual Report and Additional Reports.

The Permittee shall comply with the Annual Report requirements set forth in O.A.C. Rule 3745-54-75 and the additional report requirements set forth in O.A.C. Rule 3745-54-77.

B.23. Closure Performance Standard.

The Permittee shall close the facility as required by O.A.C. Rule 3745-55-11.

B.24. Closure Plan.

The Permittee shall carry out the closure plan as set forth in pages 319 through 330 of the permit application.

B.25. Amendment of Closure Plan.

The Permittee shall amend the closure plan in accordance with O.A.C. Rule 3745-55-12 (B).

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B.26. Notification of Closure.

As set forth in O.A.C. Rule 3745-55-12, the Permittee shall notify the Ohio Environmental Protection Agency at least one hundred eighty (180) days prior to the date Permittee expects to begin closure.

B.27. Time Allowed For Closure.

After receiving the final volume of hazardous waste, the Permittee shall remove from the facility all hazardous waste and complete closure activities in accordance with the schedule specified in the closure plan and as required by O.A.C. Rule 3745-55-13.

B.28. Disposal or Decontamination of Equipment.

The Permittee shall decontaminate and/or dispose of all facility equipment as required by O.A.C. Rule 3745-55-14 and the closure plan.

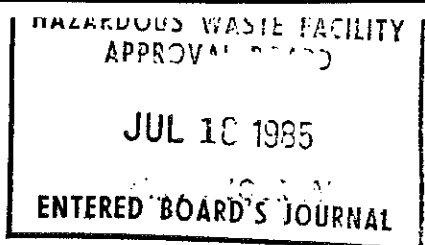
B.29. Certification of Closure.

The Permittee shall certify that the facility has been closed in accordance with the specifications in the closure plan as required by of O.A.C. Rule 3745-55-15.

B.30. Cost Estimate for Facility Closure.

The Permittee's original closure cost estimate, prepared in accordance with O.A.C. Rule 3745-55-42 (A), is specified in the closure plan. The Permittee shall:

- (a) adjust the closure cost estimate for inflation within thirty (30) days after each anniversary of the date on which the first closure cost estimate was prepared, as required by O.A.C. Rule 3745-55-42 (B);
- (b) revise the closure cost estimate whenever there is a change in the facility's closure plan as required by O.A.C. Rule 3745-55-42 (C); and
- (c) keep at the facility the latest closure cost estimate as required by O.A.C. Rule 3745-55-42 (D).



B.31. Financial Assurance for Facility Closure.

The Permittee shall demonstrate continuous compliance with O.A.C. Rule 3745-55-43 and O.A.C. Rule 3745-55-46, by providing documentation of financial assurance, as required by O.A.C. Rule 3745-55-51, in at least the amount of the cost estimates required by permit condition No. B.30. Changes in the financial assurance mechanisms shall be approved by the Ohio Environmental Protection Agency pursuant to O.A.C. Rule 3745-55-43.

B.32. Closure.

The Permittee shall comply with O.A.C. Rule 3745-55-78 in accordance with the closure plan.

B.33. Liability Requirements.

The Permittee shall demonstrate continuous compliance with the requirements of O.A.C. Rule 3745-55-47, and the documentation requirements of O.A.C. Rule 3745-55-51, including the requirement to have and maintain liability coverage for sudden and accidental occurrences in the amount of at least \$1 million per occurrence with an annual aggregate of at least \$2 million, exclusive of legal defense costs.

B.34. Incapacity of Owners or Operators, Guarantors, or Financial Institutions.

The Permittee shall comply with O.A.C. Rule 3745-55-48.

B.35. Designation of Yard Assembly Point Leader.

The Permittee shall not store hazardous waste pursuant to this permit until it has either appointed a member of the facility staff who is continuously available during working hours to act as the Yard Assembly Point Leader or has appointed an alternate to the current Yard Assembly Point Leader, which alternate is so available.

B.36. Proper Facility Conduct.

- (a) The Permittee shall not engage in any practice which would lead a reasonable person to believe that the practice constitutes an unauthorized treatment, storage or disposal of hazardous waste.

- (b) During the term of this permit the Permittee shall not dispose of, or cause to be disposed, steam condensate from truck washings or boiler operation, by depositing it onto or into the ground of its property or that of adjacent landowners.

B.37. Access to Fire Hydrant.

Prior to the receipt of any hazardous waste at this facility pursuant to this permit the Permittee shall:

- (a) submit to the Ohio EPA for its approval a plan which shall establish and guarantee that the small gate(s) in the fence(s) shall be dedicated and designated as fire gate(s) and except as provided below shall remain unobstructed at all times (as indicated on page 239 and 484 of the permit application). This plan shall also establish corridors from each fire gate to the storage area that will remain unobstructed at all times. This plan shall further provide that no rail cars block the dedicated fire gates or provide for the moving of any rail car in the event of an emergency or the relocation of the fire hydrant to a point inside the inner fence;
- (b) revise the contingency plan to correctly indicate the location of the fire hydrant(s), all fencing, gate(s) and access road(s); and
- (c) distribute the revised contingency plan in accordance with O.A.C. Rule 3745-54-53(B).

B.38. Emergency Shutoff Valves.

Prior to the storage of any hazardous waste at this facility pursuant to this permit, the Permittee shall submit to the Ohio Environmental Protection Agency for its approval both: (a) plans detailing the installation of the type of emergency valves capable of preventing released material from entering the three storm drains designated as C.B. #1, C.B. #5 and 12 C.B. on the facility plot plan (permit application at 171); and (b) a schedule for the inspection, cleaning, and maintenance of such valves.

B.39. Contingency Plan-Waste to be Managed at the Facility.

The Permittee shall revise the contingency plan to correctly indicate the waste to be managed at the facility as indicated in permit Term and Condition No. C.2. The Permittee shall distribute the revised contingency plan in accordance with O.A.C. Rule 3745-54-53(B).

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C. CONTAINER STORAGE.

C.1. Container Storage Capacity.

The Permittee shall not exceed a maximum container storage inventory of 6,050 gallons (in one hundred ten (110) containers of fifty-five (55) gallons capacity each).

C.2. Waste Identification.

The Permittee may store the following waste in containers at the facility, subject to the terms and conditions of this permit:

<u>Chemical</u>	<u>Hazard</u>	<u>Basis For Hazard Designation</u>
Tetrachloroethylene	Toxic	Listed waste F001, F002
Trichloroethylene	Toxic	Listed waste F001, F002
Methylene Chloride	Toxic	Listed waste F001, F002
1,1,1-Trichloroethane	Toxic	Listed waste F001, F002
Carbon Tetrachloride	Toxic	Listed waste F001
Chlorinated Fluorocarbons	Toxic	Listed waste F001
Chlorobenzene	Toxic	Listed waste F002
Ortho-Dichlorobenzene	Toxic	Listed waste F002
Trichlorofluoromethane	Toxic	Listed waste F002
1,1,2-Trichloro-1,2,2-Trifluoroethane	Toxic	Listed waste F002
Xylene	Ignitable	Listed waste F003
Acetone	Ignitable	Listed waste F003
Ethyl Acetate	Ignitable	Listed waste F003
Ethyl Ether	Ignitable	Listed waste F003
Methyl Isobutyl Ketone	Ignitable	Listed waste F003
n-Butyl Alcohol	Ignitable	Listed waste F003
Cyclohexanone	Ignitable	Listed waste F003
Methanol	Ignitable	Listed waste F003

Toluene	Toxic, Ignitable	Listed waste F005
Methyl Ethyl Ketone	Toxic, Ignitable	Listed waste F005
Isobutanol	Toxic, Ignitable	Listed waste F005

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C.3. Condition of Containers.

If a container holding hazardous waste is not in good condition (e.g., severe rusting, apparent structural defects) or if it begins to leak, the Permittee shall transfer the hazardous waste from such container to a container that is in good condition or otherwise manage the waste in a manner that complies with the requirements of this permit.

C.4. Compatibility of Waste with Containers.

The Permittee shall ensure that the ability of the container to contain the waste is not impaired as required by O.A.C. Rule 3745-55-72.

C.5. Management of Containers.

The Permittee shall manage containers as required by O.A.C. Rule 3745-55-73.

C.6. Inspections.

The Permittee shall comply with O.A.C. Rule 3745-55-74 and the inspection plan (permit application pages 225 through 233).

C.7. Containment System.

The Permittee shall construct, operate and maintain the containment system in accordance with the requirements set forth in O.A.C. Rule 3745-55-75, the permit application and the terms and conditions of this permit. (See Condition No. A.26(b))

C.8. Special Requirements for Ignitable or Reactive Waste.

As required by O.A.C. Rule 3745-55-76, the Permittee shall not locate containers holding ignitable or reactive waste within fifteen (15) meters [fifty (50) feet] of the facility's property line.